

By Mr. DENISON: A bill (H. R. 11859) granting an increase of pension to Charley Setemeyer; to the Committee on Pensions.

By Mr. FAUST: A bill (H. R. 11860) granting a pension to Phebe T. Miller; to the Committee on Invalid Pensions.

By Mr. FREEMAN: A bill (H. R. 11861) granting a pension to James B. Rowley; to the Committee on Invalid Pensions.

By Mr. GALLIVAN: A bill (H. R. 11862) granting a pension to Flora Ella Stevens; to the Committee on Invalid Pensions.

By Mr. GLATFELTER: A bill (H. R. 11863) granting a pension to Rose Wernig; to the Committee on Invalid Pensions.

By Mr. HERSEY: A bill (H. R. 11864) granting an increase of pension to Abbie M. Rogers; to the Committee on Invalid Pensions.

By Mr. KURTZ: A bill (H. R. 11865) granting a pension to Sarah J. Kirkland; to the Committee on Invalid Pensions.

By Mr. McLAUGHLIN of Nebraska: A bill (H. R. 11866) granting an increase of pension to Catherine Leach; to the Committee on Invalid Pensions.

By Mr. MAPES: A bill (H. R. 11867) granting a pension to Irene M. Stanley; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 11868) granting an increase of pension to John Casey; to the Committee on Pensions.

Also a bill (H. R. 11869) granting an increase of pension to Francis Rounds; to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 11870) granting an increase of pension to Ada Z. Murdock; to the Committee on Invalid Pensions.

By Mr. O'CONNELL of New York: A bill (H. R. 11871) for the relief of Stephen A. Farrell; to the Committee on Naval Affairs.

By Mr. SANDERS of New York: A bill (H. R. 11872) granting an increase of pension to Cora E. Willetts; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 11873) granting a pension to James N. McNew; to the Committee on Pensions.

By Mr. TILSON: A bill (H. R. 11874) granting an increase of pension to Maria J. Burnham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11875) granting an increase of pension to Marion S. Davis; to the Committee on Invalid Pensions.

By Mr. WASON: A bill (H. R. 11876) granting an increase of pension to Clarinda A. Spear; to the Committee on Invalid Pensions.

By Mr. WYANT: A bill (H. R. 11877) granting a pension to Josephine Howell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11878) granting an increase of pension to Sarah E. Sias; to the Committee on Invalid Pensions.

By Mr. ZIHLMAN: A bill (H. R. 11879) for the relief of Belle H. Walker and Frank E. Smith; to the Committee on Claims.

By Mr. WINGO: A bill (H. R. 11880) granting a pension to Louisa Bell; to the Committee on Invalid Pensions.

By Mr. NEWTON of Minnesota: Resolution (H. Res. 411) for the relief of the estate of John M. Larson, late an employee of the House of Representatives; to the Committee on Accounts.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3506. By the SPEAKER (by request): Petition of Municipal Assembly of Ponce, P. R., favoring the enactment of legislation permitting Porto Rico to elect its own governor; to the Committee on Insular Affairs.

3507. By Mr. CHINDBLOM: Petition of Frelon A. Mott and other residents of Chicago, opposing passage of Senate bill 3218, a bill to secure Sunday as a day of rest in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

3508. By Mr. HAWLEY: Petition of the residents of Bend, Oreg., to the House of Representatives not to concur in the passage of the compulsory Sunday observance bill (S. 3218) nor to pass any other religious legislation which may be pending; to the Committee on the District of Columbia.

3509. Also, petition of residents of Hood River, Oreg., opposing certain legislation, to wit: The compulsory Sunday observance bill (S. 3218) and asking the House of Representatives not to pass any other religious legislation which may be pending; to the Committee on the District of Columbia.

3510. By Mr. LEE of California: Petition of 16 citizens of Sonoma County, Calif., protesting against Senate bill 3218, known as the compulsory Sunday observance bill; to the Committee on the District of Columbia.

3511. By Mr. MacLAFFERTY: Petition of citizens of Alameda County, Calif., opposing the passage of the compulsory Sunday observance bill (S. 3218) and any other national religious legislation which may be pending; to the Committee on the District of Columbia.

3512. By Mr. MOONEY: Petition of Cleveland Branch, Railway Mail Association, for the passage of House bill 11444, to provide increase in postal salaries; to the Committee on the Post Offices and Post Roads.

3513. By Mr. WYANT: Petition of board of trustees of the Eastern State Penitentiary of Pennsylvania, protesting against the Parker-Fess bill, requiring the labeling of all prison-made goods, and the Zihlman bill which would prohibit the interstate shipment of prison-made goods; to the Committee on Interstate and Foreign Commerce.

#### SENATE

FRIDAY, January 23, 1925

(Legislative day of Thursday, January 22, 1925)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Elkins	Keyes	Reed, Mo.
Ball	Ernst	King	Sheppard
Bayard	Ferris	McCormick	Shields
Bingham	Fess	McKellar	Shipstead
Borah	Fletcher	McKinley	Shortridge
Brookhart	Frazier	McLean	Simmons
Broussard	George	McNary	Smith
Bruce	Gerry	Mayfield	Smoot
Bursum	Gooding	Means	Spencer
Butler	Greene	Metcalf	Stanfield
Cameron	Hale	Moses	Sterling
Capper	Harrell	Neely	Swanson
Caraway	Harris	Norris	Underwood
Copeland	Harrison	Oddie	Wadsworth
Couzens	Heflin	Overman	Walsh, Mass.
Cummins	Howell	Pepper	Walsh, Mont.
Curtis	Johnson, Calif.	Philpotts	Warren
Dale	Johnson, Minn.	Pittman	Watson
Dial	Jones, Wash.	Ralston	Wheeler
Dill	Kendrick	Ransdell	Willis

Mr. FLETCHER. I wish to announce that my colleague, the junior Senator from Florida [Mr. TRAMMELL], is unavoidably absent. I ask that this announcement may stand for the day.

Mr. PEPPER. I desire to announce that my colleague, the junior Senator from Pennsylvania [Mr. REED], is unavoidably absent from the Chamber. I request that this announcement may stand for the day.

The PRESIDENT pro tempore. Eighty Senators have answered to the roll call. There is a quorum present. The Senate will receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 698. An act for the relief of the Great Lakes engineering works;

S. 831. An act for the relief of H. B. Stout;

S. 1427. An act for the relief of Rosa L. Yarbrough;

S. 1568. An act for the relief of certain officers in the United States Army;

S. 1605. An act for the relief of Emma Kiener;

S. 1894. An act for the relief of the owners of the steamship *Kin-Dave*;

S. 1976. An act for the relief of the Commercial Union Assurance Co. (Ltd.), Federal Insurance Co., American & Foreign Marine Insurance Co., Queen Insurance Co. of America, Fireman's Fund Insurance Co., St. Paul Fire & Marine Insurance Co., and the United States Lloyds;

S. 2316. An act to allow credit in the accounts of A. W. Smith;

S. 2526. An act providing for an allotment of land from the Kiowa, Comanche, and Apache Indian Reservation, Okla., to James F. Rowell, an intermarried and enrolled member of the Kiowa Tribe;

S. 2669. An act for the relief of J. R. King;

S. 2689. An act for the relief of the First International Bank of Sweetgrass, Mont.;

S. 2711. An act for the relief of the Pitt River Power Co.;

S. 2764. An act authorizing the President to order Leo P. Quinn before a retiring board for a rehearing of his case and, upon the findings of such board, either confirm his discharge or place him on the retired list with the rank and pay held by him at the time of his discharge;

S. 3073. An act for the relief of George A. Berry;

S. 3416. An act to authorize the appointment of Thomas James Camp as a major of Infantry, Regular Army; and

S. 3505. An act for the relief of Canadian Car & Foundry Co. (Ltd.).

The message also announced that the House agreed to the amendment of the Senate to the bill (H. R. 8235), for the relief of Aktieselskabet Marie di Giorgio, a Norwegian corporation of Christiania, Norway.

The message further announced that the House had passed the bill (S. 1199) authorizing the appointment of William Schuyler Woodruff as an Infantry officer, United States Army, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills of the Senate each with amendments, in which it requested the concurrence of the Senate:

A bill (S. 51) for the relief of the owner of the schooner *Itasca* and her master and crew; and

A bill (S. 1975) for the relief of the Commercial Union Assurance Co. (Ltd.), Federal Insurance Co., American & Foreign Marine Insurance Co., Queen Insurance Co. of America, Fireman's Fund Insurance Co., United States Lloyds, and the St. Paul Fire & Marine Insurance Co.

The message also announced that the House had passed bills of the following titles, in which it requested the concurrence of the Senate:

H. R. 1076. An act for the relief of the State Bank & Trust Co. of Fayetteville, Tenn.;

H. R. 1343. An act for the relief of Edward A. Grimes;

H. R. 1699. An act for the relief of B. G. Oosterbaan;

H. R. 5143. An act for the relief of First Lieut. John I. Conroy;

H. R. 5170. An act providing for an exchange of lands between Anton Hiersche and the United States in connection with the North Platte Federal irrigation project;

H. R. 5705. An act for the reimbursement of certain persons for loss of Liberty bonds and Victory notes while naval general court-martial prisoners;

H. R. 5752. An act for the relief of George A. Petrie;

H. R. 5779. An act to place John P. Holland on the retired list of the United States Navy;

H. R. 6695. An act authorizing the owners of the steamship *Malta Maru* to bring suit against the United States of America;

H. R. 6755. An act granting six months' pay to Maude Morrow Fechteler;

H. R. 7118. An act for the relief of the Mechanics & Metals National Bank, successor to the New York Produce Exchange Bank;

H. R. 7631. An act for the relief of Charles T. Clayton and others;

H. R. 7679. An act for the relief of Lars O. Elstad and his assigns and the exchange of certain lands owned by the Northern Pacific Railway Co.;

H. R. 7780. An act for the relief of Fred J. La May;

H. R. 7825. An act for the relief of William C. Gray;

H. R. 8072. An act for the relief of Emma Zembsch;

H. R. 8163. An act for the relief of John J. Dobbertin;

H. R. 8234. An act for the relief of Fayette L. Froemke;

H. R. 8298. An act for the relief of Byron S. Adams;

H. R. 8329. An act for the relief of Albert S. Matlock;

H. R. 8727. An act for the relief of Roger Sherman Hoar;

H. R. 8741. An act for the relief of Flora M. Herrick;

H. R. 9027. An act authorizing the Secretary of the Interior to sell and patent to William G. Johnson certain lands in Louisiana;

H. R. 9131. An act for the relief of Martha Janowitz;

H. R. 9204. An act granting six months' pay to Constance D. Lathrop;

H. R. 9308. An act to authorize the appointment of Machinist Henry F. Mulloy, United States Navy, as an ensign in the regular Navy; and

H. R. 9461. An act for the relief of Lieut. Richard Evelyn Byrd, jr., United States Navy.

#### APPRECIATION OF TRIBUTE TO THE LATE SENATOR LODGE

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from J. E. Lodge, a son of the late distinguished Senator from Massachusetts, acknowledging re-

ceipt of resolutions recently adopted by the Senate, which will be printed in the RECORD.

The communication is as follows:

SMITHSONIAN INSTITUTION, FREER GALLERY OF ART,  
Washington, D. C., January 22, 1925.

GEORGE A. SANDERSON, Esq.,

Secretary United States Senate,

Washington, D. C.

MY DEAR SIR: On behalf of my family and myself, I beg to thank you for the copy of the Senate resolutions of January 19, 1925, and to ask that you will convey to the Senate our grateful appreciation of the action they have taken in connection with the death of my father.

Very truly yours,

J. E. LODGE.

#### DISPOSITION OF USELESS PAPERS

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, schedules and lists of papers, documents, etc., on the files of the Treasury Department not needed in the transaction of public business and having no permanent or historic value, and asking for action looking to their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The President pro tempore appointed Mr. Smoor and Mr. Simmons members of the committee on the part of the Senate, and ordered that the Secretary notify the House of Representatives thereof.

#### PETITIONS AND MEMORIALS

Mr. WILLIS presented the petition of Rev. R. E. Conrad and sundry members of the congregations of the Freeport and Antrim Presbyterian Churches, at Freeport, Ohio, praying for the passage of legislation providing for the observance of Sunday as a day of rest in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented resolutions adopted by the Cincinnati (Ohio) Chamber of Commerce, favoring the passage of legislation for the recognition and promotion of Master Sergt. Samuel Woodfill, United States Army, a conspicuous member of the American Expeditionary Forces during the World War, which were referred to the Committee on Military Affairs.

Mr. CAPPER presented memorials of sundry citizens of Galena, Crawford County, Nekoma, and Topeka, all in the State of Kansas, remonstrating against the passage of legislation providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. NEELY presented a resolution unanimously adopted by the executive council of the West Virginia Bar Association at Charleston, W. Va., favoring the passage of legislation granting increased salaries to Federal judges, which was referred to the Committee on the Judiciary.

Mr. HOWELL presented a petition of sundry citizens of Wayne, Nebr., praying for the passage of the so-called Cramton bill, being House bill 6645, to amend the national prohibition act, to provide for a bureau of prohibition in the Treasury Department, to define its powers and duties, and to place its personnel under the civil service act, which was referred to the Committee on the Judiciary.

Mr. PEPPER presented a petition of sundry citizens of Chester, Philadelphia, Haverford, and Pittsburgh, all in the State of Pennsylvania, praying for the passage of legislation to provide for the preservation of the frigate *Constitution*, which was referred to the Committee on Naval Affairs.

Mr. OWEN presented a resolution adopted by the Senate of the State of Oklahoma, favoring the passage of Senate bill 33, making eligible for retirement under certain conditions officers of the Army of the United States, other than officers of the Regular Army, who incurred physical disability in line of duty while in the service of the United States during the World War, which was ordered to lie on the table. (See resolution presented by Mr. HARRELD, when printed in full in the proceedings of yesterday, p. 2266.)

Mr. WADSWORTH submitted the following concurrent resolution of the Legislature of New York, which was referred to the Committee on Commerce:

IN SENATE, STATE OF NEW YORK,  
Albany, N. Y., January 12, 1925.

(By Mr. Byrne)

Whereas since the last session of the Legislature of the State of New York, as a result of an organized movement on the part of the citizens of the State of New York, the United States Army Board of Engineers for rivers and harbors officially approved of the project of deepening the channel of the Hudson River; and



Whereas at the last session of the legislature the senate and assembly did jointly adopt a resolution calling on the Congress of the United States to enact appropriate legislation to provide the authorization and necessary appropriation for the deepening of the said Hudson River; and

Whereas there has been a state-wide call for this project, indorsed by civic and semicivic organizations, clubs, fraternities, business and professional men, and organizations of citizens of various kinds; and

Whereas the action of the United States Army Engineers has been approved, in turn, by the Chief of the Army Engineers and the Secretary of War and has been transmitted, with their approval, by them through the proper channels to the Rivers and Harbors Committee of the House of Representatives, and, in turn, reported favorably by this committee as a part of the rivers and harbors bill now before Congress, containing the authorization for this deeper Hudson project; and

Whereas the governor in his annual message has indorsed this project of deepening the Hudson River, setting forth that the measure is for State and national economies in transportation; that it is immensely important to every community in the State and to the entire eastern seaboard of the United States that this natural geographical trade route, on which the Erie Canal built up the fortunes of the State of New York 100 years ago, be maintained and strengthened by such a measure; and that he further stated that this is not a partisan matter, but a business proposition, and should be kept free of politics in its every aspect, and that its importance to the State justified consideration by the legislature: Therefore be it

*Resolved (if the assembly concur),* That the Legislature of the State of New York do hereby memorialize the Congress of the United States to enact legislation now before it which will provide the authorization, and subsequently to provide the necessary appropriation, for the deepening of the Hudson River to provide for the continuation of a 27-foot channel from the lower river to the capitol district adequate for deep-sea freighters, thus creating an inland port which will relieve surplus pressure of commerce on the port of New York and hold the channel of the future trade of the United States through its logical eastern water-level route to the Atlantic coast; and that we do hereby call upon the representatives of the State of New York in the United States Senate and House of Representatives to do their utmost to see that favorable action is taken at once on this highly important and vitally necessary legislation; and be it further.

*Resolved (if the assembly concur),* That a copy of this resolution be transmitted to the Clerk of the United States Senate and to the Clerk of the House of Representatives and to each Senator and Representative in Congress from this State.

By order of the senate:

ERNEST A. FAY, Clerk.

IN ASSEMBLY, January 13, 1925.

Concurred in without amendment.

By order of the assembly:

FRED W. HAMMOND, Clerk.

#### REPORTS OF COMMITTEES

Mr. CAMERON, from the Committee on Irrigation and Reclamation, to which was referred the joint resolution (S. J. Res. 172) to authorize the appropriation of certain amounts for the Yuma irrigation project, Arizona, and for other purposes, reported it without amendment and submitted a report (No. 907) thereon.

Mr. RALSTON, from the Committee on Military Affairs, to which was referred the bill (S. 1931) amending the Army appropriation act approved July 9, 1918, providing for appointment and retirement of officers of the Medical Reserve Corps, or contract surgeons, reported it with an amendment and submitted a report (No. 908) thereon.

Mr. CAPPER, from the Committee on Military Affairs, to which was referred the bill (H. R. 5417) authorizing and directing the Secretary of War to investigate the feasibility, and to ascertain and report the cost of establishing a national military park in and about Kansas City, Mo., commemorative of the Battle of Westport, October 23, 1864, reported it without amendment and submitted a report (No. 909) thereon.

Mr. FLETCHER, from the Committee on Military Affairs, to which was referred the bill (S. 3977) to authorize the Secretary of War to reappoint and immediately discharge or retire certain warrant officers of the Army Mine Planter Service, reported it without amendment and submitted a report (No. 911) thereon.

Mr. SMITH, from the Committee on Interstate Commerce, to which was referred the bill (S. 3772) to authorize the reduction of and to fix the rate of interest to be paid by carriers upon notes or other evidences of indebtedness heretofore issued under the provisions of section 207 of the transportation act, 1920, or section 210 of said act, as amended by an act approved June 5, 1920, reported it with an amendment.

Mr. STANFIELD, from the Committee on Claims, to which was referred the bill (S. 3682) for the relief of M. Barde & Sons (Inc.), Portland, Oreg., reported it with an amendment and submitted a report (No. 912) thereon.

He also, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 8522) granting to certain claimants the preference right to purchase unappropriated public lands, reported it with amendments and submitted a report (No. 913) thereon.

Mr. WADSWORTH, from the Committee on Military Affairs, to which was referred the bill (S. 3818) authorizing the construction of additional facilities at Walter Reed General Hospital, in the District of Columbia, reported it without amendment and submitted a report (No. 914) thereon.

He also, from the same committee, to which was referred the bill (S. 3400) for the purchase of the tract of land adjoining the militia target range at Auburn, Me., reported it with amendments and submitted a report (No. 915) thereon.

He also, from the same committee, to which was referred the bill (H. R. 3669) to provide for the inspection of the battle fields of the siege of Petersburg, Va., reported it with an amendment and submitted a report (No. 916) thereon.

#### CHANGES OF REFERENCE

Mr. WADSWORTH. The bill (S. 2010) for the relief of Mrs. Gill I. Wilson was referred to the Committee on Military Affairs through an error. After consultation with the introducer, the Senator from West Virginia [Mr. NEELY], and the members of the Committee on Military Affairs I ask unanimous consent that that committee be discharged from its further consideration and that the bill be referred to the Committee on Finance.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ASHURST. The bill (H. R. 4114) authorizing the construction of a bridge across the Colorado River near Lee Ferry, Ariz., was erroneously referred to the Committee on Commerce. I ask unanimous consent that the Committee on Commerce be discharged from its further consideration and that the bill be referred to the Committee on Indian Affairs.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

#### ENROLLED BILLS PRESENTED

Mr. WATSON, from the Committee on Enrolled Bills, reported that January 22, 1925, that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 387. An act to prescribe the method of capital punishment in the District of Columbia;

S. 625. An act to extend the time for the construction of a bridge across the White River at or near Batesville, Ark.;

S. 3292. An act granting the consent of Congress to the city of Hannibal, Mo., to construct a bridge across the Mississippi River at or near the city of Hannibal, Marion County, Mo.;

S. 3428. An act authorizing the construction of a bridge across the Ohio River to connect the city of Portsmouth, Ohio, and the village of Fullerton, Ky.;

S. 3610. An act authorizing the construction of a bridge across the Missouri River near Arrow Rock, Mo.;

S. 3611. An act authorizing the construction of a bridge across the Missouri River near St. Charles, Mo.;

S. 3621. An act granting the consent of Congress to the Louisiana Highway Commission to construct, maintain, and operate a bridge across the Ouachita River at or near Monroe, La.;

S. 3622. An act granting the consent of Congress to the Louisiana Highway Commission to construct, maintain, and operate a bridge across the Bayou Bartholomew at each of the following-named points in Morehouse Parish, La.: Vester Ferry, Ward Ferry, and Zachary Ferry;

S. 3642. An act granting the consent of Congress to the State of Washington to construct, maintain, and operate a bridge across the Columbia River at Kettle Falls, Wash.;

S. 3643. An act authorizing the construction of a bridge across the Ohio River between the municipalities of Ambridge and Woodlawn, Beaver County, Pa.;

S. 3733. An act to enlarge the powers of the Washington Hospital for Foundlings and to enable it to accept the devise and bequest contained in the will of Randolph T. Warwick; and

S. J. Res. 152. Joint resolution to accept the gift of Elizabeth Sprague Coolidge for the construction of an auditorium in connection with the Library of Congress, and to provide for the erection thereof.

## WABASH RIVER BRIDGE, INDIANA

Mr. SHEPPARD. Mr. President, I report back favorably with amendments from the Committee on Commerce the bill (S. 3722) to authorize the States of Indiana and Illinois in the States of Indiana and Illinois to construct a bridge across the Wabash River at the city of Vincennes, Knox County, Ind., and connecting Lawrence County, Ill., and I submit a report (No. 910) thereon. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 1, line 4, after the name "Illinois," to strike out "connecting the two States, is" and insert "are"; in line 9, after the word "navigation," to strike out "at a place near a bridge now in operation and heretofore constructed by said Knox County at said point on the Federal transcontinental highway, known as the Midland Trail, between Vincennes, Ind., and St. Louis, Mo., all," so as to make the bill read:

*Be it enacted, etc.,* That the county of Knox, State of Indiana, and county of Lawrence, State of Illinois, are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Wabash River from a point in the city of Vincennes, Knox County, Ind., to a point in Lawrence County, in the State of Illinois, at a point suitable to the interests of navigation in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the county of Knox, State of Indiana, and the county of Lawrence, State of Illinois, to construct a bridge across the Wabash River at the city of Vincennes, Knox County, Ind."

## WHITE RIVER BRIDGE, ARKANSAS

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (S. 3884) granting the consent of Congress to the county of Independence, Ark., to construct, maintain, and operate a bridge across the White River at or near the city of Batesville, in the county of Independence, in the State of Arkansas, and I submit a report (No. 917) thereon. I ask unanimous consent for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

*Be it enacted, etc.,* That the consent of Congress is hereby granted to the county of Independence, in the State of Arkansas, and its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the White River, at a point suitable to the interests of navigation, at or near the city of Batesville, in the county of Independence, in the State of Arkansas, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

## SAVANNAH RIVER BRIDGE

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 11168) granting the consent of Congress to S. M. McAdams, of Iva, Anderson County, S. C., to construct a bridge across the Savannah River, and I submit a report (No. 918) thereon. I ask for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

## BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BAILL:

A bill (S. 4046) to curb and prevent fraudulent practices affecting real property in the District of Columbia; to the Committee on the District of Columbia.

By Mr. McKINLEY:

A bill (S. 4047) granting a pension to Elizabeth J. Hawron; to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 4048) for the relief of Luther Hansford Phipps; to the Committee on Claims.

By Mr. OVERMAN:

A bill (S. 4049) for the relief of John H. Poe (with accompanying papers); to the Committee on Claims.

By Mr. WADSWORTH:

A bill (S. 4050) for the relief of Herman Shulof; to the Committee on Claims.

By Mr. DILL:

A bill (S. 4051) granting a pension to Mary E. Kester; to the Committee on Pensions.

A bill (S. 4052) authorizing and directing the President to accept lands for naval air station at Sand Point, Wash.; to the Committee on Naval Affairs.

By Mr. NEELY:

A bill (S. 4053) granting an increase of pension to Floyd A. Honaker; to the Committee on Pensions.

By Mr. HEFLIN:

A bill (S. 4054) for the relief of the owner of the tug *Basco*; to the Committee on Claims.

By Mr. REED of Missouri:

A bill (S. 4055) granting an increase of pension to James W. Fisher (with accompanying papers); to the Committee on Pensions.

By Mr. COUZENS:

A bill (S. 4056) to provide for an additional district judge for the western district of Michigan; to the Committee on the Judiciary.

By Mr. OWEN:

A joint resolution (S. J. Res. 173) authorizing the Secretary of the Interior to establish a trust fund for the Kiowa, Comanche, and Apache Indians in Oklahoma, and making provision for the same; to the Committee on Indian Affairs.

## MINERAL LANDS IN INDIAN RESERVATIONS

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 876) to provide for the disposition of bonuses, rentals, and royalties received under the provisions of the act of Congress entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920, from unallotted lands in Executive order Indian reservations, and for other purposes, which was, on page 2, after line 8, to insert the following:

That the provisions of said act approved February 25, 1920, shall apply to unallotted lands within Indian reservations, except that such lands may only be leased and patents shall not be issued for the same.

That the production of minerals on said lands may be taxed by the State wherein the same are produced in all respects the same as minerals produced on privately owned lands, and the Secretary of the Interior is hereby authorized and directed to cause to be paid from out of the tribal funds in the Treasury the tax so assessed: *Provided*, That such tax shall not become a lien or charge of any kind or character against the land or other property of such Indians.

SEC. 2. That there is hereby authorized an appropriation of \$15,000 from the money on deposit in the Treasury to the credit of the Navajo Tribe of Indians derived from bonuses on oil and gas leases, and from oil and gas royalties, for expenditure, in the discretion of the Secretary of the Interior, for necessary expenses in connection with the supervision of the development and operation of the oil and gas industry on the Navajo Indian Reservation in Arizona and New Mexico.

SEC. 3. That the provisions of this act shall not apply to the Five Civilized Tribes in Oklahoma.

Mr. SMOOT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

## LANDS IN ARIZONA, NEW MEXICO, AND CALIFORNIA

Mr. ASHURST. I ask that the Chair kindly lay before the Senate the amendment of the House of Representatives to the bill (S. 369) to amend an act entitled "An act for the relief of Indians occupying railroad lands in Arizona, New Mexico, or California," approved March 4, 1913. I wish to move that the Senate concur in the House amendment. The bill passed the Senate and later passed the House with one amendment. I think it came over with a message on yesterday or the day before.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 369) to amend an act entitled "An act for the relief of Indians occupying railroad lands in Arizona, New Mexico, or California."



nia," approved March 4, 1913, which was on page 1, line 8, to strike out "1925" and insert the following: "1927."

Mr. ASHURST. I move that the Senate concur in the House amendment.

The motion was agreed to.

#### HOUSE BILLS REFERRED

The following bills were severally read twice by title and referred as indicated below:

H. R. 5170. An act providing for an exchange of lands between Anton Hiersche and the United States in connection with the North Platte Federal irrigation project; to the Committee on Irrigation and Reclamation.

H. R. 7780. An act for the relief of Fred J. La May; and H. R. 9027. An act authorizing the Secretary of the Interior to sell and patent to William G. Johnson certain lands in Louisiana; to the Committee on Public Lands and Surveys.

H. R. 1343. An act for the relief of Edward A. Grimes; H. R. 5143. An act for the relief of First Lieut. John I. Conroy;

H. R. 5779. An act to place John P. Holland on the retired list of the United States Navy;

H. R. 6755. An act granting six months' pay to Maude Morrow Fechteler;

H. R. 7825. An act for the relief of William C. Gray; H. R. 8072. An act for the relief of Emma Zembsch; H. R. 8169. An act for the relief of John J. Dobbertin; H. R. 8234. An act for the relief of Fayette L. Froemke; H. R. 9204. An act granting six months' pay to Constance D. Lathrop;

H. R. 9308. An act to authorize the appointment of Machinist Henry F. Mulloy, United States Navy, as an ensign in the Regular Navy; and

H. R. 9461. An act for the relief of Lieut. Richard Evelyn Byrd, jr., United States Navy; to the Committee on Naval Affairs.

H. R. 1076. An act for the relief of the State Bank & Trust Co., of Fayetteville, Tenn.;

H. R. 1699. An act for the relief of B. G. Oosterbaan; H. R. 5705. An act for the reimbursement of certain persons for loss of Liberty bonds and Victory notes while naval general court-martial prisoners;

H. R. 5752. An act for the relief of George A. Petrie; H. R. 6695. An act authorizing the owners of the steamship *Malta Maru* to bring suit against the United States of America;

H. R. 7118. An act for the relief of the Mechanics & Metals National Bank, successor to the New York Produce Exchange Bank;

H. R. 7631. An act for the relief of Charles T. Clayton and others;

H. R. 8298. An act for the relief of Byron S. Adams; H. R. 8329. An act for the relief of Albert S. Matlock; H. R. 8727. An act for the relief of Roger Sherman Hoar; H. R. 8741. An act for the relief of Flora M. Herrick; and H. R. 9131. An act for the relief of Martha Janowitz; to the Committee on Claims.

#### REPORT OF THE DIRECTOR GENERAL OF RAILROADS

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Interstate Commerce:

*To the Congress of the United States:*

I transmit herewith, for the information of the Congress, the report of the Director General of Railroads and Agent of the President for the year ended December 31, 1924, together with his final report as to adjustments of the claims of carriers whose property was taken over and actually operated by the Government during the 26 months of Federal control.

CALVIN COOLIDGE.

THE WHITE HOUSE, January 23, 1925.

#### RETIREMENT OF WORLD WAR OFFICERS

Mr. BURSUM. Mr. President, I move that the bill (S. 33) making eligible for retirement under certain conditions officers of the Army of the United States, other than officers of the Regular Army, who incurred physical disability in line of duty while in the service of the United States during the World War, be made a special order for Tuesday next at 2 o'clock.

Mr. KING. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from New Mexico moves that Senate bill 33 be made a special order for Tuesday next at 2 o'clock. The motion is not subject to debate. The Senator from Utah will state the inquiry.

Mr. KING. Is it in order, when a measure is under consideration as a special order, to supersede it or to suspend the consideration of that special order by a motion to make another bill a special order for some particular time?

The PRESIDENT pro tempore. The Chair is of the opinion that it is in order, as he expressed yesterday. The last paragraph of Rule X so provides.

Mr. STERLING. Mr. President—

The PRESIDENT pro tempore. The motion is not open to debate.

Mr. MOSES. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from New Hampshire will state the inquiry.

Mr. MOSES. In the event of entertaining the motion made by the Senator from New Mexico and its adoption, will it displace the business now before the Senate under the special order?

The PRESIDENT pro tempore. The Chair is of the opinion that it will not displace the business before the Senate.

Mr. MOSES. And the pending question, the point or order, goes on?

The PRESIDENT pro tempore. The pending question goes on, standing precisely as it does now.

Mr. SWANSON. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Virginia will state the inquiry.

Mr. SWANSON. If the Senate took an adjournment and we had had a morning hour, the ruling of the Chair, it seems to me, would be correct; but having taken a recess, we are in the legislative day of yesterday, and having no morning hour to-day it seems to me the motion, if it prevails, will displace the unfinished business which is now a special order. It appears to me also that the motion would be subject to debate for the simple reason that a motion made at this time when the Senate meets after a recess is considered as having been made after the morning hour of the legislative day.

The PRESIDENT pro tempore. The last paragraph of Rule X specially provides that the motion is not subject to debate.

Mr. KING. Is the motion subject to amendment?

The PRESIDENT pro tempore. It is not subject to amendment.

Mr. KING. Is not the motion subject to amendment as to fixing the time when the bill shall be made a special order?

The PRESIDENT pro tempore. The Chair is in doubt about that, but will hold for the moment that it is not subject to amendment.

Mr. KING. I will make the motion anyway. I move to amend the motion submitted by the Senator from New Mexico by striking out the word "Tuesday" and inserting "Saturday of next week."

Mr. BURSUM. I will accept the amendment.

The PRESIDENT pro tempore. The amendment is accepted. All who are in favor of the motion of the Senator from New Mexico as modified by the suggestion of the Senator from Utah will say "aye." Those opposed "no." The noes have it, and the motion is not agreed to.

Mr. KING. I call for the regular order.

The PRESIDENT pro tempore. The difficulty is that many Senators did not vote on the motion and the Chair declared the result on the vote that was actually cast.

Mr. BURSUM. I did not understand the decision of the Chair. What was the decision of the Chair?

The PRESIDENT pro tempore. The decision of the Chair was that the noes had it, and the motion was not agreed to.

Mr. BURSUM. That was on the amendment, was it not?

The PRESIDENT pro tempore. The Senator from New Mexico accepted the amendment, and the Chair stated that the question was on the motion as made by the Senator from New Mexico modified by the suggestion of the Senator from Utah. The Chair is not to blame because many Senators did not vote.

Mr. BURSUM. I ask for a division or a roll call.

Mr. KING. I submit that it is too late.

The PRESIDENT pro tempore. The Chair is of the opinion that the demand comes too late.

Mr. KING. Regular order!

The PRESIDENT pro tempore. The regular order is Senate bill 3674, and it will be proceeded with.

#### POSTAL SALARIES AND POSTAL RATES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3674) reclassifying the salaries of postmasters and employees of the Postal Service, readjusting



their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes.

The PRESIDENT pro tempore. The question is upon the point of order raised by the Senator from Virginia [Mr. SWANSON].

Mr. STERLING. Will the Chair state the point of order, so that all Senators may understand it?

The PRESIDENT pro tempore. The Senator from Virginia raises the point of order that Title II of the bill down to section 217 is repugnant to the Constitution of the United States, which requires that revenue measures shall originate in the House of Representatives. The question is, Shall the point of order raised by the Senator from Virginia be sustained?

Mr. HEFLIN. On that question I call for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays were ordered yesterday upon the question.

Mr. PEPPER. Mr. President, I wish to submit a very few observations touching the validity of the point of order which has been made against the portion of the pending bill which the Chair just specified.

Of course, I am aware that in the last analysis the House of Representatives may determine the question in any particular case, because if it chooses to regard a measure originating in the Senate as being a bill for raising revenue it may refuse to consider the bill and the Senate has no recourse. On the other hand, I apprehend that we should not anticipate that the House in any particular case will act in capricious fashion, but will desire merely to stand upon its constitutional prerogatives. Therefore I take it that the Senate should not act in mere slavish apprehension of what the House may do, but should seek, if possible, to work out a test of its own and apply that test in deciding such a point of order as this one.

Mr. President, after having listened most attentively to the argument by the Senator from Virginia [Mr. SWANSON] and those who have suggested considerations on that side of the proposition, I submit that clearly the test is not whether the bill under consideration produces revenue which is covered into the Treasury. Whatever the test may be, it seems to me clear that that is not the test. I think that becomes almost demonstrable if one considers a few illustrations of different measures which have been or may be before this body.

Take, Mr. President, the case in which a bill authorizes the sale of land. The proceeds of the sale are covered into the Treasury. It is clear that that is not a revenue measure, but that the Government in that case is acting not as a sovereign but as a proprietor and is receiving the consideration which comes from parting with the thing owned.

Take, if you please, Mr. President, the case of a lease of Government property or the grant of a power privilege—the lease, for example, of the Muscle Shoals project, or whatever the case may be. It is perfectly true that money will come as the result of the proprietary grant; that the money will be covered into the Treasury and will become the subject of appropriation; but such a bill is not, within the meaning of the Constitution, a bill to raise revenue.

Take the case, Mr. President, of a criminal code, which prescribes what shall constitute crimes and offenses and the penalties for the infraction of its provisions. The fines and penalties are covered into the Treasury; but no one will be bold enough to contend that, being in the Treasury and subject to appropriation for the general purposes of government, therefore a criminal act imposing fines and penalties is a bill to raise revenue.

I suggest, Mr. President, the case of the creation of an office by statute and the prescribing of fees and charges which may be exacted for service rendered in the office, as, for instance, an act to establish a pension office and to fix the fees payable by those using the facilities of the pension office. That would not be a bill to raise revenue.

An act regulating the rate to be charged on a public utility—as, for example, a railroad owned by the Government—has the effect of producing revenue for the Treasury; but I submit, sir, that such a bill, within the meaning of the Constitution, is not a bill to raise revenue.

In the present case, as I think was well suggested by the Senator from Missouri [Mr. REED] yesterday, what we have is not the exercise of sovereignty by the Government, which is the thing against which the Constitution protects the people by placing its original determination in the hands of the most numerous branch of the National Legislature, but it is an act of proprietorship in which the Government sells service, and the resulting payment which comes into the Treasury is not revenue within the sense of the constitutional provision that we are discussing.

What is the test which the Senate should apply? Mr. President, clearly the test is not the mere fact that money is raised and that it goes into the Treasury. I apprehend that the true test, in the first place, is this: No bill is a bill for the purpose of raising revenue unless it is a bill to raise a tax, a duty, an impost, or an excise. Those are the methods specified in the Constitution for raising the revenue of the Government, and, I repeat, no bill is a revenue bill which does not lay a tax, a duty, an impost, or an excise.

The reason is obvious. A tax, Mr. President, is a charge levied against the person or the property of an individual, otherwise than as a penalty for a crime, for the purpose of providing the Government with money with which to operate. That is a tax. It is an exaction of sovereignty. An impost or a duty is a charge which is assessed in respect of goods brought in from abroad. An excise is a charge made against those inland activities which the Government sees fit to make tributary to the Treasury.

All those are methods of raising revenue; they are exactions of sovereignty, and against the abuse of those powers the people need protection. The kind of protection that is given them is to require the bills raising revenue in the those ways shall originate in the House of Representatives, which is supposed to be more closely in touch with popular sentiment.

On the other hand, Mr. President, there are many varieties of ways in which money may be raised and flow into the Treasury which have no relation whatever to the raising of revenue in the constitutional sense. All the cases which I have mentioned by way of illustration are examples of measures that produce money for the Treasury but are not revenue measures within the meaning of the Constitution.

So I venture to suggest that the Senate in acting upon this matter should be guided by the following two principles: First, that no measure is a bill for raising revenue unless it lays a tax, an impost, a duty, or an excise; and, second, that it by no means follows that merely because a bill does lay a tax, a duty, an impost, or an excise, therefore it is a revenue measure; for, while it is not germane to the present discussion because we are considering a bill which lays no one of those exactions, it is settled by authority that even tax bills may not be revenue measures or measures to raise revenue in the constitutional sense if it so be that the revenue production is incidental to some other purpose of Government which is the primary object of the bill.

I have in mind the case in which all the property of the District of Columbia was subjected to an assessment to raise a fund for the purpose of meeting in part the expenses of the Union Station. That was clearly a tax bill, but it was held by the Supreme Court not to be, within the meaning of the Constitution, a bill raising revenue. I have in mind, by way of distinction, the case cited yesterday by the Senator from South Dakota [Mr. STERLING] to the effect that where the postal-order system was set up and fees were authorized to be charged by deputy postmasters for the service rendered in the office, while that was a measure which produced money it was in no sense a revenue-producing measure within the meaning of the Constitution.

There are tax bills discussed in the cases, confessedly tax bills, as in the national bank case, in which the court said that the taxation feature was incidental merely to the principal purpose of the legislation, and therefore the bill was not one to raise revenue.

But, Mr. President, I lay aside as not germane to this case the cases in which taxes, imposts, duties, and excises are levied not primarily for the purpose of revenue. Having done so, I venture to assert that there is no case decided by respectable authority in which it has been held that a bill is a bill to raise revenue unless it is a bill levying a tax, an impost, a duty, or an excise.

Mr. FESS. Mr. President, will the Senator yield for a question?

The PRESIDENT pro tempore. Does the Senator from Pennsylvania yield to the Senator from Ohio?

Mr. PEPPER. I yield to the Senator from Ohio.

Mr. FESS. Would the Senator's interpretation extend to the authority of the Senate to fix the salaries of Government officials? Could we originate a bill here fixing the salaries of various officials of the Government?

Mr. PEPPER. Mr. President, I take it that that raises the question which has been long in debate between the Senate and the House, which even gives rise to the question whether appropriation bills may originate here.

Mr. FESS. That is another question.



Mr. PEPPER. I am aware of the existence of that conflict of opinion between the two bodies; but I beg the Senator to focus attention upon the proposition immediately before us, which is whether the Senate should take its stand upon the constitutional proposition that no measure is one beyond its jurisdiction unless it is a measure which lays or levies a tax, an impost, a duty, or an excise. I say, if it were necessary, I should be prepared to point out that there are cases where measures are tax measures and yet are not measures raising revenue in the constitutional sense. But this is not a tax case, and so it is not necessary to discuss that question.

I submit, however, that we ought not, merely upon the suggestion that the House of Representatives will refuse to consider our bill, slavishly recede from the assertion of what I believe to be the constitutional rights of the Senate. I feel somewhat jealous, Mr. President, of the preservation of our constitutional rights in this body, and I venture to hope that Senators will look beyond the immediate implications of the pending question and deal with it as one affecting the dignity and prerogatives of the Senate. I press for an acceptance of that view, Mr. President, with all the earnestness of which I am capable.

Mr. FESS. Mr. President, I am of the opinion that the comments of the Senator from Pennsylvania should be given considerable attention because of the necessity of maintaining the dignity of this body. I give that phase of the suggestion full respect. He did raise the question that was in my mind as to the right of this body to initiate appropriation bills; and also as to its right to originate general legislation fixing the salaries of Government officials. Those two are mooted questions. I think that the strongest argument that has yet been presented on either side of that issue was presented by John Sharp Williams, when a Senator in this body, on July 15, 1912. The opinion of Senator Williams would always carry great weight because of his ability generally, and especially with reference to an issue such as this. I commend the reading of that address to every Member of the Senate. It is too long for me to quote from it, other than simply to call attention to the argument ex-Senator Williams made that that is not a power that this body can initiate.

Mr. SIMMONS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from North Carolina?

Mr. FESS. I do.

Mr. SIMMONS. Will the Senator state to the Senate the general position taken by Senator Williams, and some of the essential arguments upon which he based his conclusion?

Mr. FESS. The Senator will be glad to make a statement of the source of ex-Senator Williams's argument.

The subject had been running as a subject of debate for much time, and he took occasion to go over the sources, going back to the Constitutional Convention, and quoting very profusely from the fathers, including Mr. Pinckney, whose opinion would carry great weight, Hamilton, Madison, and Yates.

Mr. McCORMICK. Mr. President, will the Senator yield for a question?

Mr. FESS. I yield.

Mr. McCORMICK. Was the bill before the Senate, upon which Senator Williams spoke, a revenue bill?

Mr. FESS. It was an appropriation bill; and the Senator asked the privilege of inserting in the Record his findings, after having taken much time to collect them from the original sources, and they are here before me. He quotes the opinion from the famous Judge Iredell, of the State of the distinguished Senator from North Carolina, one of the great judges of our early history; also quoting the opinion of the Pinckneys. If I may be permitted, I should like to read just one statement:

That all bills for raising or appropriating money and for fixing the salaries of the officers of the Government of the United States shall originate in the first branch of the Legislature, and shall not be altered or amended by the second branch.

That was the original proposal. It was modified by striking out the latter part, "shall not be altered." I do not want to take the time of the Senate to repeat the various citations, but simply call the attention of the membership of the Senate to the article, that they may enlarge on it if they desire.

Mr. McCORMICK. Mr. President, did Senator Williams hold that the Senate could not modify appropriation bills?

Mr. FESS. No; he did not.

Now, as to the other suggestion of our respecting the action of the House, I think it is proper that we should take into consideration what is to be the immediate result of this legis-

lation if we send it to the House. The matter came up in the House in 1859. I read from Hinds' Precedents, volume 2, section 1485:

The Senate having insisted on its right to add a revenue amendment to an appropriation bill, the House declined to proceed further with the bill.

Instance of a conference over the prerogatives of the two Houses respecting revenue legislation.

\* \* \* \* \*

On March 3, 1859, Mr. Galusha A. Grow \* \* \*

Of the State of the distinguished Senator from Pennsylvania—

as a question of privilege offered this resolution:

"Resolved, That House bill No. 872, making appropriations for defraying the expenses of the Post Office Department for the year ending 30th June, 1860, with the Senate amendments thereto, be returned to the Senate, as section 13 of said amendments is in the nature of a revenue measure."

Mr. Grow explained that section 13 raised the rate of postage.

Mr. John S. Phelps, of Missouri, contended that the revenue bills which should originate only in the House were such only as were contemplated in this clause of the Constitution.

That is the contention of those who have spoken in favor of this body having the ability to do what we propose to do, that that power was conveyed in this clause:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises."

The question being taken, the resolution was agreed to—yeas 116, nays 78.

The resolution of the House having been received in the Senate, Mr. John J. Crittenden, of Kentucky, proposed the following resolutions, which were agreed to:

"Resolved by the Senate of the United States, That the Senate and House, being of right equally competent, each to judge of the propriety and constitutionality of its own action, the Senate has exercised said right in its action on the amendments sent to the House, leaving to the House its right to adopt or reject each of said amendments at its pleasure."

That was the contention of the Senator from Pennsylvania [Mr. PEPPER] just a moment ago.

"Resolved, That this resolution be communicated to the House of Representatives, and that the bill and amendments aforesaid be transmitted therewith."

That was the action of this body.

This message, with the bill and amendments, having been received in the House, a motion to take them up under suspension of the rules failed—yeas 94, nays 85.

The House, therefore, rejected the proposal to take them up.

That is only one incident touching this subject. There are many others. There are two specific instances that cover precisely this point that we have, both of them on the postal increase. The second was raised by Uncle Joe Cannon, afterwards the Speaker of that body.

Mr. OVERMAN. Mr. President, if the Senator will yield to me, that is the very case cited by Roscoe Conkling in a celebrated opinion he gave as to the right of the House to make appropriations. It has been contended that the Senate could not make appropriations.

Mr. FESS. So I understand.

Mr. OVERMAN. And his opinion was written on that subject, and in so far as levying taxes are concerned Roscoe Conkling quotes this very case in the case I quoted yesterday.

Mr. FESS. In other words, Mr. President, we have two precedents that cover precisely the question we have before us, limited to the raising of postage rates, and there is not a bit of doubt about the outcome of this thing if we send it to the House. Some Member of the 435 will raise the point of order. Here are two precedents specifically on the subject, and the House does not reverse its precedents. That has been my understanding, at least, in my service in that body.

Mr. STERLING. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Dakota?

Mr. FESS. I yield.

Mr. STERLING. I wondered if the question was not raised in either one or both of these cases as to a consideration of the matter by the House in Committee of the Whole. As I remember, the House had a rule, and I think the rule still prevails, to the effect that certain measures must be considered by the House in Committee of the Whole; and is it not



possible that the action of the House was based on the fact that the measure had not been considered in the Committee of the Whole?

Mr. FESS. I will say to my friend the Senator from South Dakota that that is not the point. It is true that all public bills that provide for an appropriation or expenditure of money must be considered in the Committee of the Whole in the House; but that was not the question that was raised here. My only concern about the matter is that we are raising a question that I am perfectly certain will be futile, for if we send this bill to the House a point of order will be raised, and the bill will not be considered. It is true that the House then can proceed to take up the bill *ab initio*; but I think the proper thing to do would be to have the bill originate in the House where it belongs. Then, when it comes over here, we can amend it if we see fit to do so.

Mr. McCORMICK. Mr. President, let me ask the Senator—who for so many years and so ably has defended the prerogatives of the House that he is not yet accustomed to defending the prerogatives of the Senate—if it be not true that in the House, under the rule, appropriations may not be made for commissions appointed without authority of law?

Mr. FESS. I do not know of any case of that sort. Is the Senator's question as to appropriating for commissions in the House without authority of law? There is no such practice over there.

Mr. McCORMICK. The Senator knows that within the last fortnight the House has appropriated to that end.

Mr. FESS. If anybody had made the point of order, it would not have been done. The House evidently did it in ignorance of the fact that there was no existing law on the subject.

Mr. McCORMICK. No, Mr. President, I think if the Senator will inquire he will find that they did it under the persuasion of some of the leaders of the House that that would be the prudent and the politic course to follow in the interest of the public welfare.

Mr. FESS. I will say to the Senator from Illinois that I can not conceive of the possibility of the House knowingly appropriating money without authority. I can not conceive of the possibility of that; and if there had not been any authority I also can not conceive of an appropriation bill in the House writing in the bill legislation which would not pass a point of order.

Mr. McCORMICK. Mr. President, unless my memory be at fault the appropriation was made by amendment in the Senate, and leaders of the House persuaded the Members of the House to acquiesce in that appropriation for the maintenance of a commission which exists without any authority of law.

Mr. FESS. I catch the point of the Senator now. Whenever the Senate puts on a bill through an amendment that which would have been without authority in the House, or would have been subject to a point of order in the House, the House can not act upon that without a separate vote.

Mr. SMOOT. That is only under the rules of the House.

Mr. FESS. That is what I mean, under the rules of the House. That is what we are talking about.

Mr. McCORMICK. In this case, unless I am misinformed, there was no separate vote.

Mr. NORRIS and Mr. PEPPER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Ohio yield, and if so, to whom?

Mr. FESS. I yield first to the Senator from Nebraska.

Mr. NORRIS. So that we may have accurate information, I wish the Senator from Illinois would give that instance.

Mr. McCORMICK. Certainly; I shall seek the information at the first opportunity. I was informed yesterday that the amended bill sent over there was accepted without any separate vote on the items in question.

Mr. NORRIS. Was that a vote for an appropriation?

Mr. McCORMICK. Yes.

Mr. NORRIS. That is different from a vote for an amendment raising revenue, to begin with. There is not any constitutional prohibition against the Senate originating an appropriation.

Mr. SWANSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Virginia?

Mr. FESS. I yield to the Senator.

Mr. SWANSON. To emphasize still further the position taken by the Senator from Ohio and also the suggestion made by the Senator from North Carolina, let me suggest that all of these rates were fixed in a revenue act which is now existing, the act of 1917, passed by both bodies of Congress and signed

by the President. This is an effort to repeal, abolish, or modify what has been decided by both the House and the Senate in fixing these rates in the revenue act of 1917. The Constitution provides that the Senate may concur in a revenue bill with amendments, but, as suggested by the Senator from North Carolina yesterday, there is an effort now to repeal in the Senate what has been conceded by both bodies to be a revenue act.

Mr. FESS. I yield now to the Senator from Pennsylvania.

Mr. PEPPER. Mr. President, I merely desire to address an inquiry to the Senator from Ohio, from the point of view of friendliness to the legislation now pending and with a regard for the maintenance of the prerogatives of the Senate. Does not the Senator think that there is a great deal to be said in favor of the last suggestion which he himself made in his opening remarks, that we should turn down this point of order, maintain the position of the Senate, send the bill to the House, and, if the House refuses to consider it, the House will proceed, as the Senator suggests, to originate a companion or substitute measure of its own? This is my question: From the point of view of the Senate, should we not act upon the principle which I attempted to outline a few moments ago and let the House take the responsibility of rejecting our action if it sees fit?

Mr. FESS. Mr. President, I want to be very frank in my reply to the Senator. This point of order is a source of considerable embarrassment to the friends of the measure in that if the point of order is sustained and it is limited to Title II, this body will have before it exactly the same bill which was vetoed by the President, precisely, without any modification.

Mr. WILLIS and Mr. REED of Missouri addressed the Chair.

Mr. FESS. This body will be facing a situation of going up hill one day and down the next, which nobody wants to do.

Mr. SMOOT. Mr. President—

Mr. FESS. I will yield in just a moment. I have insisted that the point of order should go to the legislation, should go to the entire bill, and if sustained, the bill will be away from this body, instead of having the point of order apply to the point to which the author has limited it. I recognize, as any other Member here does, that I can make a point of order to a word in a bill, and if sustained the word will go out and leave the bill; or to a clause, or to a title. I can also make a point of order to the whole bill, because it contains that which is out of order, and if the point of order is sustained, the bill will leave us. That is the contention I have been insisting upon, but I have not been able to convince the President of this body that, with the point of order of my friend the Senator from Virginia, now pending, the larger point of order, going to the entire bill, which includes everything, would be in order.

I yield to the Senator from Utah.

Mr. SMOOT. I simply wanted to refer to the remarks made by the Senator from Virginia [Mr. SWANSON]. He claims that because of the fact that an amendment fixing rates was made to an appropriation bill, that made it a revenue measure. That is the position the Senator took, or at least I understood the Senator to say that.

Mr. SWANSON. The revenue act of 1917, as I understand it—

Mr. SMOOT. No, it was a Post Office appropriation bill to which the Senator referred, and if that is the case, I want to call the Senator's attention to the fact that few appropriation bills ever pass this body without legislation being put upon them. The Senator from Ohio [Mr. FESS] was correct when he said that such legislation has to be acted upon separately in the House, under the rules of the House. There is no doubt about that. But the mere fact that the House agrees to it, and agrees that under their rule it should be a part of that particular bill, does not make that item or amendment a revenue bill, because few appropriation bills ever pass without legislation of that kind on it. I hold in my hand the Interior Department appropriation bill for the fiscal year ending June 30, 1926. I think there are at least four or five items in the bill of exactly the character I have described. Does the Senator mean that hereafter, if there shall be legislation in Congress upon the items in an appropriation bill, it must originate in the House? That would be intolerable.

Mr. SWANSON and Mr. WILLIS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Ohio yield; and if so, to whom?

Mr. FESS. I yield first to the Senator from Virginia.

Mr. SWANSON. As I understand it—and if I am mistaken I would like to have the Senator correct me—the revenue act of 1917 for all purposes fixed these postal rates, too.



Mr. SIMMONS. Mr. President, as I stated on yesterday, one of the revenue acts—I do not recall now which one—provided for an increase in the postage rate upon letters, raising it from 2 cents to 3 cents. That went into effect and continued in effect until subsequently repealed in another revenue act. That is what I stated yesterday.

Mr. FESS. Now I yield to my colleague.

Mr. WILLIS. Mr. President, I simply wanted to call the attention of my colleague to a rather famous case which came from the State of Ohio, and to ask whether he has considered the court's decision in that case.

As I recall the case, the title was *Laylin* against the Southern Gum Co. The Senator will remember that the Legislature of Ohio passed an act levying what in common parlance was called a "tax" upon certain corporations, domestic corporations and foreign corporations, in proportion to their capital stock. The Senator will remember that that was contested by the corporations on the theory that it was a tax. The case ran through all the courts and finally came here to the Supreme Court, as I recall it, and it was held that that was not a tax, that the bill was not a revenue bill, that the purpose of it was to require these corporations to pay a fee for a service. It seemed that the fee paid was rather out of harmony with the amount of service rendered.

The Senator knows that the law in question brings in, perhaps, a million and a half dollars per year; but the court held, and it is still the holding of the court, never having been reversed, that that was not a revenue measure, but a measure intended to collect a fee for a service, and that therefore the provision of the Constitution touching revenue bills did not apply.

With great respect for my colleague's argument, it seems to me that that applies to the instant case, in that this is not a revenue bill, but is a measure intended to collect, as it were, a fee for a service, and therefore the provision of the Constitution in question does not apply. It is my understanding that the pending measure is not a revenue bill, but that it proposes in effect to provide for the collection of certain fees and charges for service rendered. I think, therefore, that the point of order should not be sustained.

Mr. FESS. Mr. President, I must say to my colleague that both he and I voted against this measure when it was originally in the Senate because it did not provide the revenue. Now we do provide the revenue, and I am inclined to vote for the bill, it having that provision in it. Everybody knows that the Constitution does not use the word "taxes" in this connection, but uses the word "revenue," and that anything that goes into the Treasury, out of which or from which it can only be taken by legislative action, is revenue. Whether or not it is revenue in the sense in which that word is used in the Constitution, where it provides that all bills for raising revenue shall originate in the House, is a question of dispute here, it seems; but there is no doubt in my mind, and for that reason I shall have to vote to sustain the point of order.

Mr. WILLIS. Mr. President, my colleague understands that I agree with him that while in effect this is revenue, it is really a payment for a service that is rendered by the Post Office Department, and that therefore it does not come under the general head of revenue, but rather is a fee.

Mr. REED of Missouri. Mr. President, I do not want to weary the Senate with further talk about this point of order, but I desire to call attention to a few authorities. As a preliminary, let me say that it is a strange doctrine which I have heard announced here this morning, that if a certain item happens to have been put in some ordinary revenue bill, for all time that fixes that class of thing as a revenue measure within the meaning of the Constitution. If that were true, we would better use a great deal of care hereafter, for nothing is more common than to find a revenue bill filled up with all sort of regulations, and with substantive law touching many questions.

The question whether this bill is a revenue bill within the meaning of the Constitution is the only question before us. If we shall decide that it is, we will deprive the Senate of a jurisdiction which it has constantly had since the formation of the Government. If we decide it upon narrow grounds because our desires in this particular case may run in a certain direction, we may find day after tomorrow that our desire runs the other way, and we will be confronted with the decision in which we have shorn ourselves of a jurisdiction granted to us by the Constitution.

Of course, absent the provision in the Constitution which declares that the House of Representatives must originate revenue bills, the Senate would have an equal jurisdiction, and the Senate's jurisdiction is coordinate with that of the House save and except as it is limited by that phrase of the Constitution, and that phrase of the Constitution has received construc-

tion by the courts and the authorities from the days of Story. It was Story who early used, if he did not originate, that expression construing the clause of the Constitution as referring strictly to taxes, and which has been read here several times.

I desire for a moment to call attention to the fact that the specific question we are now discussing has been decided by the United States District Court for the Southern District of New York. The opinion was by Judge Johnson, and he said:

The provision of the Constitution, which is claimed to render invalid the clause in question, is this: "All bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments, as on other bills."

The court declares:

A bill regulating postal rates for postal service provides an equivalent for the money which the citizen may choose voluntarily to pay. He gets the fixed service for the fixed rate or he lets it alone, as he pleases and as his own interests dictate. Revenue beyond its cost may or may not be derived from the service and the pay received for it; but it is only a very strained construction which would regard a bill establishing rates of postage as a bill for raising revenue, within the meaning of the Constitution. This broad distinction existing, in fact, between the two kinds of bills, it is obviously a just construction to confine the terms of the Constitution to the case which they plainly designate. To strain those terms beyond their primary and obvious meaning and thus to introduce a precedent for that sort of construction would work a great public mischief. Mr. Justice Story, in his *Commentaries on the Constitution* (sec. 880), puts the same construction upon the language in question and gives his reasons for the views he sustains, which are able and convincing. In *Tucker's Blackstone* only, so far as authorities have been referred to, is found the opinion that a bill for establishing the post office operates as a revenue law. But this opinion, although put forth at an early day, has never obtained any general approval; but both legislative practice and general consent have concurred in the other view.

There is the case of *Smith v. Gillam* (282 Fed. Repts. 628), where the question arose touching the prohibition law. I read just a sentence:

\* \* \* Previous adjudications have clearly established the proposition that the incidental receipt of money by the Government or its officers under the national prohibition act (41 Stat. 305) does not make it a "revenue law" within the meaning of such enactments as section 33 of the Judicial Code.

Here is a case in the One hundred and forty-ninth Federal Reporter, *Bryant Bros. against Robinson*, coming up from the fifth circuit. The case came up on a question of removal, and the court there said:

There is no decision of the Supreme Court decisive of the question as to whether this cause is removable under section 643. In *Public Clearing House v. Coyne*, 194 U. S. 497, 506, 24 Sup. Ct. 789, 48 L. Ed. 1092, the Supreme Court speaks of the Post Office Department as not being "a necessary part of the civil government in the same sense in which the protection of life, liberty, and property, the defense of the Government against insurrection and foreign invasion, and the administration of public justice, are; but is a public function assumed and established by Congress for the general welfare, and, in most countries, its expenses are paid solely by the persons making use of its facilities; and it returns, or is presumed to return, a revenue to the Government, and really operates as a public and efficient method of taxation." *United States v. Norton*, 91 U. S. 566, 23 L. Ed. 454, is cited as an authority against the application of the statute to this case. It holds that the act entitled "An act to establish a postal money-order system," approved May 17, 1864, c. 87, 13 Stat. 76, is not a revenue law within the meaning of the act entitled "An act in addition to the act entitled 'An act for the punishment of certain crimes against the United States,'" approved March 26, 1804, c. 40, 2 Stat. 290. *United States v. Hill*, 123 U. S. 681, 8 Sup. Ct. 308, 31 L. Ed. 275, contains expressions which confine the phrase "revenue law," when used in connection with the jurisdiction of the United States courts, to laws imposing duties on imports or tonnage, or a law providing in terms for revenue.

The case in Two hundred and second United States, *Millard against Roberts*, has already been cited. The case in One hundred and seven United States, *Twin City Bank against Nebeker*, has been cited and I shall not read it again. The case of *United States against Norton* has been cited and often referred to. There is a case in Arkansas by the supreme court of that State which holds that a special tax levied for the purpose of building bridges and highways is not a revenue law within the proper meaning of that term. There is a case of *Laughlin against County of Santa Fe*, decided by the Supreme Court of New Mexico, from which I read just a sentence:

Courts have frequently had occasion to construe similar phraseology, and, in such construction, they hold almost uniformly that the term "revenue," when used with reference to funds derived from taxation,



is best interpreted, in the absence of qualifying words or circumstances implying a different signification, as confined to the usual public income taxation.

I have found no case to the contrary. It seems to me too plain for argument. The exclusive authority granted to the House of Representatives to originate revenue bills, properly construed, gives to that body an exclusive jurisdiction over tax measures and does not apply in a case where a charge is fixed for a governmental service, even though the funds derived are turned into the General Treasury, where, in fact, are placed by the Government substantially all dues or fees or fines.

Let me illustrate: We have built a railroad in Alaska. Suppose we were to undertake in the Senate to pass a bill regulating or improving the service on the railroads in Alaska. Would anyone say we could not provide for the levying of proper charges on that road? The Panama Canal is an illustration. Tolls are charged for boats passing through the canal. Does anyone imagine that the Senate could not provide for the raising or lowering of those tolls? The lowering of a toll is the fixing of a lower rate, and there it is equally a revenue measure, if it be a revenue measure at all, with the raising of rates.

Now, it seems to me a vote upon this question for any narrow reason that we would like to put the bill in such shape that the House of Representatives would be forced to a particular action or that some tactical advantage could be gained here over the bill, is a mistake, because the precedent we establish will remain. If we establish a wrong precedent, it will be here to-morrow and the day after to-morrow and 10 years from now, and we may find an occasion when the Senate will regard it as highly necessary that it should exercise the power given to it by the Constitution of the United States.

Mr. PEPPER. Mr. President, will the Senator yield for a question before he takes his seat?

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from Missouri yield to the Senator from Pennsylvania?

Mr. REED of Missouri. I yield.

Mr. PEPPER. I have been very much impressed with the effectiveness and logic of the Senator's presentation, and I want to ask whether it is not true that the real distinction as indicated by the authorities which the Senator has cited is between those exactions which the Government makes in its capacity as sovereign and those charges which it makes when, as a proprietor, it sells property or as a renderer of service it sells services? Is not that distinction fundamental all through the cases which the Senator cited?

Mr. REED of Missouri. I think it is. But I go a little further than that. I believe that a careful examination will show that the provisions of the Constitution apply only to a general tax, strictly and absolutely a tax.

Mr. STERLING. Mr. President, I have already occupied considerable time in the discussion of this question, and shall therefore be very brief. I just want to say a few words brought out by some statements made by the Senator from Ohio [Mr. FESS] and by others, too. It seems to me that we only need to look at the terms of the bill and consider the things for which the bill provides in order to determine whether it is a revenue measure.

The Government, under the power given by the Constitution, has established post offices and post roads for the benefit of the public or that part of the public desiring to use postal facilities. It costs the Government, of course, to maintain those facilities, and it charges the people who use the facilities for the services rendered. In charging them for the services rendered, are we raising a revenue within the meaning of the Constitution, requiring bills for the raising of revenue to originate in the House of Representatives?

Note the language of the bill, and one example will serve for all. For the service rendered in handling drop letters the rate of postage at post offices where free delivery by carriers is not established shall be, according to the terms of the original bill, 1½ cents; according to the amendment, 1 cent.

Now, note the next clause—

SEC. 202. (a) Postal cards authorized in section 3916 of the Revised Statutes shall be transmitted through the mails at a postage charge, including the cost of manufacture, of 1½ cents each—

According to the original bill, but "1 cent each" according to the proposed amendment. Is the charge made on the individual who chooses to use this facility and to purchase and mail a postal card with a 1½-cent stamp or a 1-cent stamp on it revenue in the ordinary sense of the term, let alone the meaning of the expression as found in the Constitution? So it

is with reference to every single service provided for in this bill, the service as it is applicable to the zone system for which the bill provides and the extra charge for the service in transmitting the mail to the remote zones established by the bill or at present under the law. Therefore, Mr. President, it seems to me that there is a very good test, indeed, as to whether the charges provided for by the provisions of Title II of the bill are revenue in the sense meant by the Constitution.

One thing further, Mr. President. The authorities were cited and read from at length on yesterday. There are the three decisions of the Supreme Court—first, in the case of the United States against Norton, in which the question as to whether the money-order system established years ago was a system for raising revenue and whether a man having violated the law had violated a revenue law. The Supreme Court held in that case that it was not a revenue law, although every cent of the money received for a money order and every cent of fees paid for the issuance of the order went into the General Treasury of the United States.

Take the next case, that of Twin City Bank against Nebeker, where a 10-cent tax was imposed upon the circulation of national banks. The point was sought to be made that it was a revenue measure which should have originated in the House of Representatives. The court stated in that connection:

This language is applicable to the acts of Congress in the case at bar. Whatever taxes are imposed are but means to the purposes provided by the act.

I appreciate the point raised by the Senator from Ohio as to what the House of Representatives may do, but I wish to know if here and now in the consideration of this question the Senate is to be bound by what it thinks the House may possibly do in regard to this matter, or whether it is to be governed by the interpretations of the Constitution by the Supreme Court in case after case.

Mr. SHORTRIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from California?

Mr. STERLING. I yield.

Mr. SHORTRIDGE. May we not confidently assume that the House of Representatives will be governed by the authorities which have been cited and the strong and unanswerable reasons which have been given in support of the position of the Senator from South Dakota and other Senators?

Mr. STERLING. I think so. Mr. President, I thank the Senator from California for his observation.

Furthermore, Mr. President—

Mr. WILLIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Ohio?

Mr. STERLING. I yield.

Mr. WILLIS. I wonder whether the Senator from South Dakota meant what he said in response to the Senator from California. Does the Senator from South Dakota think because the House, the other body, is likely to be governed by the considerations named that, therefore, in the Senate, abjectly and slavishly, we should bury our own opinions and not act as we think we ought to act?

Mr. SHORTRIDGE. Mr. President, may I respond to the suggestion just made by the Senator from Ohio?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from California for that purpose?

Mr. STERLING. Certainly.

Mr. SHORTRIDGE. In response to the Senator from Ohio [Mr. WILLIS] I will say, of course not. I put the question in that form for this reason: At this moment I merely say that, in my opinion, this is not a revenue measure, for reasons which have been presented by various Senators, notably this morning by the Senator from Pennsylvania [Mr. PEPPER] and immediately now by the Senator from South Dakota [Mr. STERLING], who has the floor. I inquired, may we not assume with perfect confidence that these authorities, this logic, the very philosophy of our Government, will appeal to the learned men in the House of Representatives? Wherefore, why should we hesitate, why should we timidly pause out of a childish fear that the House of Representatives will differ from us?

Mr. STERLING. That is as I understood the purport of the question of the Senator from California.

Mr. SHORTRIDGE. Multum in parvo.

Mr. STERLING. Yes. In that connection let me call the attention of Senators to this thought: The Senator from Ohio [Mr. FESS] states that among the 435 Members of the House of Representatives there will be some one who will make the



point of order against this bill, should we pass it here. Does it conclusively follow because the point of order may be made that the point of order will be sustained?

Mr. SHORTRIDGE. It might be overruled, Mr. President.

Mr. STERLING. It may be overruled. It may be submitted to the House of Representatives, as it is submitted to the Senate here, and the House of Representatives may vote against sustaining the point of order, if it shall be made.

Mr. FESS. Mr. President, will the Senator from South Dakota yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Ohio?

Mr. STERLING. I yield.

Mr. FESS. Does the Senator believe that the House of Representatives will reverse its decision when its practice has been to follow the precedents that it has set?

Mr. STERLING. How recently has the House followed the precedent which was set away back 50 years ago?

Mr. FESS. I have never known the House of Representatives to reverse a precedent. Does the Senator from South Dakota remember the House of Representatives having reversed a precedent?

Mr. STERLING. No; I do not recall it having done so. I am not familiar with the proceedings in that respect in the other House, I will say to the Senator from Ohio.

The PRESIDING OFFICER. It is contrary to the rules to refer to what has taken place in the House of Representatives or to what takes place in the House of Representatives.

Mr. SHORTRIDGE. Mr. President, the House of Representatives is not made up of Medes and Persians, but they are American statesmen—

The PRESIDING OFFICER. That reference to the House of Representatives will be indulged.

Mr. SHORTRIDGE. And I am assuming that if they were wrong 40 years ago, they will strive to be right to-day.

Mr. STERLING. Mr. President, I hope I have said nothing derogatory to the House of Representatives or to any Member of the House of Representatives.

The PRESIDING OFFICER. The Senator has not done so.

Mr. STERLING. I think the Chair has been a little exacting in his construction of the rule. I hardly think the rule goes so far as the Presiding Officer now intimates.

The PRESIDING OFFICER. The Chair did not mean to intimate that the learned Senator from South Dakota had said anything unparliamentary or in an offensive way.

Mr. NEELY. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Virginia?

Mr. STERLING. I yield.

Mr. NEELY. I wish to observe that if Senators desire to criticize the House of Representatives they ought to wait until the next Speaker of the House, Mr. LONGWORTH, shall have retired from this Chamber. [Laughter.]

Mr. STERLING. Mr. President, I was very much impressed with the argument of the Senator from Pennsylvania [Mr. PEPPER]. It seems to me it is conclusive. Money collected by the Government can not be called revenue except it arises from a tax, from a duty, from an impost, or from an excise; but there may even be bills providing for taxes which are not, according to the decisions of the Supreme Court, bills raising revenue, as in the case in Two hundred and second United States, where a tax of \$1,500,000 was imposed upon the people of the District of Columbia under the terms of two several bills, and yet they were held not to be within the meaning of the Constitution—bills for the purpose of raising revenue.

Mr. President, just one word further. I want Senators to consider the exigencies of the situation. We have before us a bill which we are pledged in a sense—and in a very large sense—to pass. It is a bill increasing the salaries of the postal employees. It is here now and has reached the state of consideration by the Senate. The question of time is very material and important, and I think we ought to go ahead as we are warranted in going ahead with this bill, taking the sense of the Senate upon the various amendments and upon the bill itself, and then testing out the question as to whether the House will raise and insist upon the point that it is a revenue bill and therefore should have originated in the House.

Mr. SHORTRIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from California?

Mr. STERLING. I yield.

Mr. SHORTRIDGE. Mr. President, under the Constitution the public lands are under the jurisdiction of Congress, are they not?

Mr. STERLING. They are.

Mr. SHORTRIDGE. And the Congress is made up of two Houses—the House of Representatives and the Senate. We all agree as to that. Now, could a bill not be introduced in the Senate providing for the leasing of the public domain or the sale of the public domain?

Mr. STERLING. I have no question about that, I will say to the Senator from California.

Mr. SHORTRIDGE. And as a consideration for the lease or for allowing the title to pass the Government would receive certain moneys, and those moneys would be converted into the Treasury.

Mr. STERLING. Certainly.

Mr. SHORTRIDGE. It is all repetitious, but merely to emphasize the point, allow me to ask, is there any learned Senator, Member of this body, who would contend that a bill for the purpose of selling the public domain or of leasing it might not properly and constitutionally originate in the Senate?

I submit that that one illustration is determinative of the point raised by the Senator from Virginia. The mere circumstance that the Government receives some money does not make that money revenue in the constructive sense, nor does the fact that a bill provides for the getting of that money by a charge for service rendered or for property parted with make the bill one for the raising of revenue as contemplated by the Constitution.

Mr. OVERMAN. Mr. President, I am not going to discuss the pending question except to read briefly from one decision. Of course, there are all kinds of courts and all kinds of decisions, but I have before me a decision which I think decides the point as to whether or not the pending bill is a revenue measure. It was argued here all day yesterday, and has been argued to-day, that a bill designed to raise \$63,000,000 and taking it out of the pockets of the people and putting it in the Treasury of the United States is not a revenue bill.

In the grand old State of Massachusetts, before its supreme court, one of the greatest courts in the country, this question came up for decision. There is a clause in the constitution of Massachusetts exactly like the clause in the Federal Constitution in regard to the body in which bills to raise revenue shall originate. The court in Massachusetts decided that money which is taken out of the pockets of the people and put into the treasury of the State is revenue. The decision, I think, is clearly in point. I read from One hundred and twenty-sixth Massachusetts Reports, on page 557, and the decision is signed by all of the judges. A question similar to that now before the Senate was sent to the judges for decision, namely, whether or not the senate of the Legislature of Massachusetts could originate appropriations, which was the same question that has arisen here time and time again, and which really has been settled by the Conkling report, from which I read yesterday. I will merely read from the syllabus of the Massachusetts case:

The exclusive privilege of the house of representatives, under the constitution of the Commonwealth, chapter 1, section 3, article 7, to originate money bills, is limited to bills that transfer money or property from the people to the State.

That is what is meant by revenue. Whenever a bill transfers money from the pockets of the people to the State treasury it is a revenue bill.

Mr. STERLING. Mr. President, may I interrupt the Senator?

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from South Dakota?

Mr. OVERMAN. I yield.

Mr. STERLING. Does the decision make any distinction between a tax imposed on all the people generally and a tax imposed upon those who use a special service of the Government and pay for that service?

Mr. OVERMAN. No; it does not make any such distinction, and certainly there can be no such distinction made in this case where it is proposed to take the \$63,000,000 from the people.

Mr. President, this question is 300 years old and more. Long years ago it was discussed in parliament, and there came near being a great war on account of it. When the power to raise money for governmental uses was transferred from the people that power was conferred on the House of Commons. So when the question was discussed in our Constitutional Convention, the members of that convention took the provision from the parliamentary rules of Great Britain as it is found in the Constitution to-day. Mr. Blackstone goes fully into that, and I presume all the lawyers of the Senate have read in Blackstone the passages where he goes on to show the



origin of the provision that all bills that raise money from the people for governmental purposes shall be initiated in the House of Commons of the English Parliament.

Mr. GEORGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH in the chair). The Senator from Georgia suggests the absence of a quorum. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Ernst	McKellar	Shields
Ball	Ferris	McKinley	Shipstead
Bayard	Fess	McLean	Shortridge
Bingham	Fletcher	McNary	Simmons
Borah	Frazier	Mayfield	Smith
Brookhart	George	Means	Smoot
Broussard	Gerry	Metcalf	Spencer
Bruce	Gooding	Moses	Stanfield
Bursum	Hale	Neely	Sterling
Butler	Harris	Norris	Swanson
Cameron	Harrison	Oddie	Underwood
Capper	Heflin	Overman	Wadsworth
Caraway	Howell	Pepper	Walsh, Mass.
Copeland	Johnson, Calif.	Phipps	Walsh, Mont.
Couzens	Johnson, Minn.	Pittman	Warren
Curtis	Jones, Wash.	Ralston	Watson
Dale	Kendrick	Ransdell	Wheeler
Dial	King	Reed, Mo.	Willis
Dill	McCormick	Sheppard	

The PRESIDING OFFICER. Seventy-five Senators have answered to their names. There is a quorum present.

Mr. SIMMONS. Mr. President, on yesterday I participated in the discussion of some of the phases of the controversy in which we are now engaged, by my interruptions of the Senator from New Hampshire [Mr. MOSES], in charge of the bill, and the Senator from South Dakota [Mr. STERLING], who is chairman of the committee reporting the bill. The question now before us is whether the pending measure provides for the raising of revenue and therefore, having originated in the Senate, contravenes the constitutional provision which invests the House of Representatives with the exclusive power of originating bills for such purpose.

It is gravely contended the Senate, ignoring the precedents and position of the other body of the Congress, should decide for itself that question. Senators have declared that our failure to do so would show a spirit of weakness, and an indisposition to defend the dignity and prerogatives of the Senate.

Mr. President, I hope that Senators, in making up their minds as to how they ought to vote upon this question, will not be influenced by the dilemma or the predicament in which the administration and the majority upon this floor might be put with respect to this legislation in case this point of order should be sustained. If the Senate wants to assert its prerogatives, and thinks it is in a position to assert and maintain its alleged prerogatives effectively, all well and good; but I hope Senators will not permit the fact of a legislative predicament to influence their minds in the determination of the question upon its merits.

Mr. President, the House of Representatives has the right, and the exclusive right, to settle this question. The Constitution lodges in the House the exclusive power to originate bills to raise revenue. That power necessarily carries with it the exclusive power to determine and decide whether a bill does raise revenue or not. We can not divest the House of Representatives of that constitutional right by any action we may take; and any action we may take in this respect, therefore, is futile, while any action that the House of Representatives may take is binding upon us.

To refuse to recognize the power of the House and the decisions of the House in this respect is to undertake to override the constitutional provision which gives them the exclusive right to originate bills to raise revenue; in other words, the exclusive right to originate bills to raise revenue implies, to be effective, the exclusive power to determine whether a bill does raise revenue or not.

Mr. President, we know what the attitude of the House is with respect to these revenue bills. During a long period of years the House has made its attitude clear. The Senator from Ohio [Mr. FESS]—who was long a Member of the House, one of its leading Members, a student of parliamentary law, a student of constitutional law, and manifestly a man of reflection and observation—has called to the attention of the Senate the well-established and unbroken precedents of the House in this behalf. He called attention to the fact that the House in the assertion of this right has invariably returned to the Senate without action thereon bills held by it to provide for the raising of revenue.

The Senator from Ohio also assures this body that his long service and familiarity with the proceedings of the House, and the spirit of the House with respect to questions of this

sort leads him to believe that the House will not recede from the precedent so established. He goes further than that and says that he does not know any instance where the House has receded from its position upon this question.

Of course, Mr. President, we can enact this legislation, we can assert our alleged right if we wish to disregard the attitude and precedents of the House of Representatives; but if we put this provision in the bill, it is quite certain, I think, that the House will refuse to accept the bill. If it follows its precedents, it certainly will. That does not mean that we may not at this session have legislation upon this subject. The House can, if it sees fit to do so, initiate legislation providing revenue to cover increases in the salaries of postal employees. But the surest method of getting effective legislation in this matter is for the Senate to recognize the precedents of the House, to recognize the authority of the House to decide a question of this kind, and strike this section out of the bill, passing the balance of the bill providing for the increases in the salaries of the postal employees, let it go to the House, and then if it is found desirable, and the House shall so determine, the House can reincorporate that part of the bill which we eliminate, and there will be no delay in the process of legislation.

If there is a determination on the part of the majority party, or the administration, to resist the passage of this legislation in behalf of the postal employees unless the bill provides for additional revenue sufficient to take care of the increases, the House is as cognizant of that position as is the Senate. The House is in close touch with the leaders in this Chamber. If the House feels that the President would veto the bill again if it did not contain the provision for raising additional revenue by increase of postage rates, and that it is necessary to tack on, in order to secure the President's signature, such a provision, undoubtedly the House will add such a provision or make some other provision to meet the requirements of the situation created by the attitude of the President.

There is nothing involved in the decision of this question under discussion, therefore, which should defeat the main purpose of this bill, namely, to increase the salaries of postal employees; and if the rate section is eliminated from the bill and the bill goes to the House and it wants to pass the bill but is satisfied the President would veto it if it did not contain a revenue provision to take care of the increases, I assume the House would make some provision for the additional revenue to cover the salary increases, although I should oppose with all the vigor I have a bill coming from the House providing the same method of raising this money as is employed in this bill.

Mr. President, I can not see in the cases cited and the decisions relied upon by the Senator from Missouri [Mr. REED] or by the Senator from South Dakota [Mr. STERLING] any justification for the confident position which they take that the courts have already settled this controversy. The courts have not settled this controversy. Not a single one of the decisions shows that the courts have settled it. All the courts have undertaken to decide is that in case a governmental service is created and the act creating it provides for payment for that service that that is not an act to raise revenue.

I do not controvert that position at all. I said yesterday in discussing this question that if this were an original bill for the purpose of creating a postal facility, such, for instance, as the Rural Free Delivery Service, it would be entirely competent for the Senate in providing for that service to provide for the funds to pay salaries of the employees of the Post Office Department charged with the performance of that service. In such a case it would be clear that the bill was for the purpose of providing funds to pay for a service to be performed and for no other purpose.

It was because I had that view that, upon the very threshold of the consideration of this question, when the very able and eloquent and resourceful Senator from New Hampshire [Mr. MOSES] was discussing the amendments to the bill, I interrupted him and asked him what the policy of the committee was in imposing these increased postage rates, whether it was to make the rates more nearly commensurate with the service rendered, or because the present rates were thought by the committee to be too low. I asked him whether they increased the rates upon parcel post and newspaper advertising matter because they thought the present rates were now too low, or whether they were so increased for the purpose of raising an additional amount of revenue to be paid into the Treasury to meet a deficit expected to appear because of the proposed increases in postal salaries.

I had in mind this very distinction when I asked those questions, because I believed then, as I believe now, if the proposed increases in rates were based on the belief that they were at



present inadequate to the service rendered by the Government, the section of the bill making these increases would not be subject to the objection that it provided for raising revenue within the meaning of the constitutional provision which we have been discussing.

Mr. REED of Missouri. Mr. President, is not that exactly what we are doing?

Mr. SIMMONS. If the Senator will pardon me, he will shortly see my point. The Senator probably was not here when I made my statement yesterday.

The Senator from New Hampshire admitted that the purpose of this section of the bill was to obtain revenue which should go into the Treasury for the purpose of meeting the salary increases made in the bill.

We have an admission to the effect that that is the purpose of the legislation. Not only does that admission come from the sponsor for this legislation upon the floor of the Senate, but that admission is implied in the very attitude of the President with regard to this legislation. Moreover, the bill itself in its title declares that it has a double purpose, one to raise the salaries and the other to raise the revenue to meet that increase in salary.

I think that the intent of Congress with respect to the legislation is the essential matter of the utmost importance in determining the question at issue. The court will gather its information as to that intent from the context of the act itself. If it finds from the context of the act that it is in effect one to raise revenue to defray Government expenses, then it will hold that it is subject to the constitutional provision with regard to the branch of the Congress authorized to originate such bills. If we know the intent that we ourselves have in the enactment of the legislation, whether we write that intent clearly in the bill or not, if we know our purpose and intent is to raise revenue to meet the increased expenses of the Government and not to adjust or increase charges for service rendered, then we ourselves ought to refrain from undertaking the exercise of power withheld from this body with respect to the origin of legislation.

In questions of this sort, in trying to ascertain what was the intent of Congress, the courts not only look to the context of the measure, but the courts examine the discussions in the Congress with a view of enlightening its judgment as to what was the real intent of the legislation. That it is our intent to do this thing—to raise revenue—is confessed on the floor of the Senate, confessed in the attitude of the President—yes, in the demand of the President, for the President is understood to demand that if we increase these salaries we shall at the same time provide additional revenue with which to pay the increase, and the bill is merely carrying out his demand.

I think the Supreme Court has sustained my contention in this respect. It was for the purpose of ascertaining what was the intent—not because I did not know it, but because I wanted it declared upon the floor of the Senate by the sponsor of the bill—that I interrogated the Senator from New Hampshire [Mr. MOSES] before this question was raised in order that I might have an authoritative declaration written in the records of the Congress as to what intent actuated and moved the committee in incorporating into the bill the provisions increasing postage rates.

Mr. McCORMICK. What was the statement of the Senator from New Hampshire with reference to the intent of the committee?

Mr. SIMMONS. It was made clear by the statement of the Senator from New Hampshire made on yesterday that the purpose of the committee in providing for these rate increases was to raise revenue to pay the increased salaries.

Mr. McCORMICK. Let me ask the Senator—

Mr. SIMMONS. Let me finish this and then I will yield to the Senator. The very case cited by the distinguished Senator from South Dakota [Mr. STERLING] bears out my contention. I shall not review the facts before the Supreme Court in the case of *United States v. Norton*, but it became necessary in deciding the case to determine whether a certain act was a revenue act within the meaning of the constitutional term to raise revenue. The court said:

There is nothing in the context of the act to warrant the belief that Congress in passing it was animated by any other motive than that avowed in the first section.

The motive there was to establish a postal monetary system. If that means anything it means that the court will look to the context for the purpose of seeing if there was any purpose in the act that might relate to revenue, and if there was purpose that might relate to revenue then they would

give weight to that purpose in their consideration of the case. The court said further:

The offenses charged were crimes arising under the money order act. The title of the act does not indicate that Congress, in enacting it, had any purpose of revenue in view. Its object, as expressly declared at the outset of the first section, was "to promote public convenience and to insure greater security in the transmission of money through the United States mails."

Mr. President, I think it is clear that in determining the question whether an act is designed to raise revenue the intent of Congress is of great importance, and it is upon that manifest intent in the pending bill that I put my objection to the rate section as infringing the rights of the House and therefore inadmissible in a bill originating in the Senate.

I do not think there can be any doubt about two things: first that it is the clear, manifest, undisputed purpose and intent of this particular part of the pending bill to impose the proposed increased postage for the purpose of raising revenue to defray the increased expenses of the Government caused by increasing the salaries of postal employees; second, it shall be enacted and the courts shall find that such was its purpose and intent; they will construe it to be an act to raise revenue. If the courts shall find that such was not the purpose, but that the purpose was to equalize and adjust postal rates, because at the present time they are unequal or unfair to the Government or to the patrons of the Government service, then the courts would, in my judgment, hold that those provisions were not for the purpose of raising revenue, but for the purpose of paying for the service.

But when it is coupled with another piece of legislation and is brought here admittedly for the purpose of raising revenue to meet the expenses of the Government involved in the other section of the bill, then it really becomes a revenue measure and the intent of the Congress in passing it is not to charge for service, but to raise money for a collateral purpose.

The House of Representatives can not be in any doubt about what the intent is with reference to the matter. The intent may not be sufficiently clearly written in the context of the bill to control the Supreme Court and the Supreme Court may not be able, using that context and the contemporaneous discussion of the question in the Congress, to gather our intent in that respect with sufficient certainty to enable them to apply it in the consideration of the question involved; but there is no trouble about the House knowing what the intent is.

The House knows as well as the Senate knows what purpose actuates and moves us in the imposition of these increased rates. The House knows that it is not for the purpose of fixing the scale of charges upon the basis of equity and fairness to the Government and to the users of this governmental facility. It knows that it is for the purpose of raising this money for some other reason than that which ought to actuate us in increasing postal rates.

Mr. President, we are impelled in our haste and our hurry to get revenue, under the demand of the President, to pay these increased salaries. We are hurried into imposing these taxes upon the users of the parcel post and increasing the rates on advertising matter in the newspapers and magazines of the country not because it has been determined by the committee, after thorough investigation, that it is the duty of the Government to do this, but because it is found expedient to do it, in order to meet the demands of the President to raise additional revenue to cover a probable deficit.

Mr. WALSH of Massachusetts. Mr. President—

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Massachusetts?

Mr. SIMMONS. I yield.

Mr. WALSH of Massachusetts. I should like to ask the Senator if it is not significant that since the foundation of the Post Office Department there never before has originated in the Senate a bill to increase postal rates?

Mr. SIMMONS. I do not recall any such bill having originated in the Senate since I have been here, now practically a quarter of a century.

Mr. UNDERWOOD. Mr. President, I do not intend to delay the Senate for any length of time in discussing the point of order which is now before the Senate.

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Alabama yield to me in order that I may make a point of order?

Mr. UNDERWOOD. I yield.

Mr. WALSH of Massachusetts. I think the full Senate ought to hear what the Senator from Alabama shall say on this question, and I raise the point of order that a quorum is not present.



The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Ferris	McCormick	Sheppard
Ball	Fess	McKellar	Shipstead
Bayard	Fletcher	McKinley	Shortridge
Bingham	Frazier	McLean	Simmons
Brookhart	George	McNary	Smith
Broussard	Gerry	Mayfield	Smoot
Bruce	Gooding	Metcalf	Spencer
Bursum	Hale	Moses	Stanfield
Butler	Harrell	Neely	Sterling
Cameron	Harris	Norbeck	Swanson
Capper	Harrison	Oddie	Underwood
Caraway	Heflin	Overman	Wadsworth
Copeland	Johnson, Calif.	Pepper	Walsh, Mass.
Couzens	Johnson, Minn.	Phipps	Warren
Curtis	Jones, Wash.	Pittman	Weller
Dale	Kendrick	Ralston	Willis
Dial	Keyes	Ransdell	
Dill	King	Reed, Mo.	

The PRESIDING OFFICER. Seventy Senators have answered to their names. A quorum is present.

Mr. UNDERWOOD. Mr. President, I would not detain the Senate on this question of order if I did not regard it as one that is very far-reaching, and one that goes to the very fabric of the construction of government.

Some weeks ago I voted for the raise in the pay of the postal employees, because I believed that most of those men, if not all of them, are underpaid when you consider the advanced cost of living since their salaries were fixed heretofore; but I stand ready to vote against this bill in the form it is in if it comes to final passage. There are a number of reasons, but not the least of those is the method in which the bill comes before the Senate.

These employees are under the civil service. They are employees of the United States Government, not particularly of the Post Office Department. They receive their pay from the Treasury of the United States, not from the Post Office Department. It matters not whether the postal rates produce too much or too little; their pay is fixed by the Congress, and is supposed to be fixed in compensation for service rendered. If we are now to start a new precedent, one that is established for the first time in the history of this Government, and say that the basis of pay for service rendered shall be the question as to whether the Congress is willing to levy taxes on the American people in order to raise the revenue to compensate for that service, we have established an entirely new basis for service in the Post Office Department as distinguished from every other department of this Government.

I think that would be unfortunate for the Government; I think it would be most unfortunate for the employees; and I think it would be equally unfortunate for those who must pay the toll, because you are then going to bring about a competition between the political influence of the employee in an effort to raise his salary and the political influence of the man who is paying the toll in an effort to keep down his salary. I do not think the basis of compensation of any employee of this Government should be the question as to whether we can raise taxes to pay him. His compensation should be based on a fair and just return for service rendered.

Now as to the point of order. Mr. President, it seems to me very clear that the section of the bill that seeks to increase postal pay or the remuneration for carrying the mail is subject to the point of order made by the Senator from Virginia [Mr. SWANSON].

The reason of the law is the life of the law, and without the reason manifestly the law can never stand. The reason for the adoption of these clauses in the Federal Constitution is the life that stands behind them. You must bear in mind that it was the men who fought the War of the Revolution who wrote the Constitution of the United States, and one of the battle cries that they followed on the Revolutionary battle fields was that taxation without representation is unjust. Therefore when they wrote the Constitution of the United States they provided in the limitations of that instrument that all bills affecting revenue must originate in the House of Representatives; and why? Because that body more nearly represented the mass of the American people who pay taxes.

We may to-day pay a portion of our taxes measured by the standard of wealth, but we had no income tax in the days of the Revolution. We collected our taxes largely per capita; we collected them on the food the man ate, or the clothes he wore, or on some service rendered. Therefore we placed in the Constitution of the United States a limitation that provided that if you were going to tax him the taxing power must originate in the House, primarily representing the mass of the American people.

I have heard it said that that reason applied in that day because United States Senators were not directly elected by the people, but were elected by the legislatures, and that the House was elected directly by the people. I do not so understand the reason of the rule. The reason of the rule was that every State, regardless of its size and its population, was represented in this body by two Senators, while the number of Members of the House of Representatives depended on the population of the States. In other words, it came back to the principle that taxation without representation is unjust; and it is in the House and not here that the mass of the people of the United States are represented according to number. A smaller State has the same representation in this Assembly that the Empire State of New York has, and yet in the House of Representatives that smaller State has 1 vote and the Empire State of New York has 43. So it is perfectly clear that there was and is a reason for the rule maintained and established in the Constitution of the United States that bills affecting revenue must originate in the House.

If that is the reason of the rule, if it was placed in the Constitution to protect the mass of the American people against taxation, why should it not apply all along the line? Why should you discriminate? Why should you say that you may perchance levy an income tax and require that it shall originate in the House of Representatives, but at the same time that if you levy an impost tax on automobiles it may originate in the Senate? There is no reason for that rule. It does not apply. It does not come within the terms of the reason that moved the fathers who built the Constitution.

Mr. KING. Mr. President, will the Senator yield?

Mr. UNDERWOOD. I will.

Mr. KING. The Senator used the expression "bills affecting revenue," and stated that they must originate in the House. Does the Senator differentiate between the word "affecting" and the word "raising"? The Constitution says "raising," not "affecting."

Mr. UNDERWOOD. I do not differentiate. It has been held that under the term "raising revenue" a bill decreasing revenue that originates in the Senate is equally unconstitutional.

Mr. KING. It is not unconstitutional.

Mr. UNDERWOOD. I beg the Senator's pardon. I can not stop now to show him the authorities, but I will do so. It has been held that bills lowering revenue are just as unconstitutional, if they originate in the Senate, as bills raising revenue; because, forsooth, they fix the revenue tax, and in the end they are charging revenue.

As has been said in this debate, revenue means taxation, and that is true. That is the reason of the rule. It was to guard against unjust taxation that this clause was placed in the Federal Constitution; and the courts have said that raising revenue meant levying taxes. But what does levying taxes mean? What is a tax? A tax is a rate charged on person or property for the use of the Government?

Now, what is this? What is the proposal here? To increase postal rates; in other words, to require the user of the mails to put additional stamps on a package. The stamp merely represents the power of the Government. It is a permit for the use of the mails. The buying of the stamp is the charge, and it is a rate imposed either upon the person who sends the letter or on the letter itself, whichever you choose to call it, for the use of the Government of the United States. There can not be any question about that. The fact that the Post Office Department in a way renders a business service does not take it out of the rule. You might go to the Interior Department and go to the Public Lands Division and there apply the same rule. Of course, that would not be a tax, because the public lands already belong to the Government, and this rule applies only to taxation. But you can go to any of these departments where service is rendered, and the fact that there is a rendition of service does not change the fact that the revenue raised to support it is not taxation. It seems to me that is perfectly clear, and it has so been regarded since the beginning of this Government, and until this time I have never heard of a bill raising the rates in the Postal Service originating in the Senate of the United States.

Senators claim that we should stand firm to our rights and our prerogatives. Yes, Mr. President, if they are our rights and our prerogatives, but there is no greater disservice the Senate can give to the people of the United States than to seek to absorb to itself, where it may have a temporary lease of power, the control of matters which have not been given to us either by the Constitution or the people of the United States.

The Constitution gives to us the right to join with the President of the United States in making treaties. That is our



right, and we should be firm in maintaining that right. But the Constitution distinctly took away from us the right to originate certain classes of legislation, and it did so for a good reason. It did so in the interest of the great mass of the American people, and I say that for the Senate at this hour, under the pressure of a trying case, to seek to grasp power which we do not possess, to maintain rights which are not ours, would not only set a bad precedent, which would come back to haunt us, but it would mean a great disadvantage to the men we seek to serve.

In all honesty and candor I voted for the increases in the pay of the postal employees, because I believed they were entitled to them, but I know, and I think there are but few Senators here who do not know, that the House of Representatives is just as jealous of its rights and its prerogatives as is the Senate of the United States of its rights and prerogatives; that it will maintain them, and should maintain them.

Mr. BAYARD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Delaware?

Mr. UNDERWOOD. I yield.

Mr. BAYARD. I do not know whether the Senator was present this morning when the senior Senator from Pennsylvania [Mr. PEPPER] was talking on this subject, but he made the suggestion, as I understood him, that it was not the part of this body to be in any way afraid of whatever action the House might take; in other words, whatever conception the House might have of the duties and powers of the Senate was not a matter for this body to consider. It struck me at that time—and I want to make the suggestion to the Senator who is now speaking—that we are bound to take cognizance of our own powers in this body, and are we not to that extent a quasi judicial body, which must first determine its own jurisdiction of a matter pending before it before it can determine the consideration of the case?

Mr. UNDERWOOD. I think the Senator is unquestionably right. If our position were clear, if it were within our power, I think we should maintain our position and our rights; but, to say the least, this proposal had hardly walked across the door of the Senate before its constitutionality was challenged. I served for 16 years on the Ways and Means Committee of the House of Representatives, and twice I participated in votes which sent back to the United States Senate bills which came over there containing provisions for raising revenue.

Mr. SWANSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Virginia?

Mr. UNDERWOOD. I yield.

Mr. SWANSON. To emphasize what the Senator has said, to show that this point of order made by me should be sustained, one of the ablest justices we ever had on the Supreme Court, Justice McLean, in a case reported in Twelfth Howard, delivered an opinion on this very question which seems to me should be conclusive of this matter. The question was as to whether postal revenues were taxes, so as to form the basis for a prosecution against a man who misused the revenues of the Government under a general statute. I want to read from the opinion, which seems to me ought to be conclusive of this question.

Mr. WALSH of Massachusetts. What is the citation?

Mr. SWANSON. It is the case of United States v. Bromley, (12 How. 97). This is the language of the court:

Revenue is the income of a State, and the revenue of the Post Office Department, being raised by taxation on mailable matter conveyed in the mail and which is disbursed in the public service, is as much a part of the income of the Government as moneys collected for duties on imports.

The language under which that prosecution was had was "revenue of the Government," under the constitutional phrase.

Mr. UNDERWOOD. I think the Senator is right. I do not think there is any doubt about that position.

Now, as to the practical proposition. If I really were not disposed to pass legislation which would give these men reasonable raises in their salaries, I would say—

On with the dance! Let joy be unconfined.

Let us ride on over the bluff and destroy the measure. But I know, and you know, Mr. President, that if we send this bill raising revenue in the Postal Service to the House of Representatives our action will be challenged at once. They will either refuse to pass the bill or they will send it back here.

We are within about 30 days of final adjournment. If we should pass this bill now with this provision in it, it would mean absolutely and unequivocally that the measure providing

for increases in the salaries of the postal employees would lie dead across the door of the Senate. There can be no question about that. On the other hand, if this point of order shall be sustained or on motion this section shall be stricken out of the bill, we will send the measure to the House of Representatives.

Mr. McKELLAR. Mr. President—

Mr. UNDERWOOD. Just allow me to finish this thought. If the House sees fit to put in the bill a provision for taxation to raise this money, they can do that; that is their prerogative. I think it would set a bad precedent. I think the question of the increases in the pay of these men should stand on service rendered and not depend on the condition of the Treasury. But the House could do that, and when the bill came back here, or went to conference, we would have a direct vote on the question involved, without any constitutional issue being raised.

Now, I yield to the Senator from Tennessee.

Mr. McKELLAR. Mr. President, we have already passed a postal salaries increase bill, which the President has vetoed. If the revenue features of this bill should be stricken out, that would leave the salary bill just as it was when the President vetoed it. Does the Senator think that the postal employees will get any increases of salary if all the revenue features are stricken out and the bill is left as it was before?

Mr. UNDERWOOD. I do not know what attitude the President may take in reference to the bill as it goes back to him. I am not prepared to say that. Nor am I prepared to say whether the House would pass it over his veto if it came back again. I think the vote when the bill came up before was very close. There might be a change.

Mr. SWANSON. Mr. President, if the Senator will permit me to suggest it, if this section shall be eliminated—and I wish to say that if this point of order is not sustained I shall move to strike out the part of the bill imposing the tax—the bill can go to the House with these raises in it, and if the House sees proper to impose a tax, as it is given power under the Constitution to do, I do not see why the Senator from Tennessee should be so anxious that the Senate should impose these taxes. The House will have that privilege, if it thinks wise to put it through.

Mr. McKELLAR. I do not want to interfere with the remarks of the Senator from Alabama, but when he finishes I will be very glad to answer the Senator from Virginia.

Mr. UNDERWOOD. Mr. President, of course the House can add a provision imposing these taxes, and we can consider that. I think it would be very unwise for the House to impose taxes in order to pay specific salaries. I think in the last analysis we would in that way put the Government employees on the battle line on one side against the taxpayers on the battle line on the other side, to the detriment and discomfort, in the end, of the Government employees. I do not think the question should be raised. I do not think it is a fair wage of battle. I think it is very much better in the end for these men to stand on what I believe are their just and fair rights; and if they do not obtain their rights to-day, they should come back tomorrow. But they should not let the issue as to whether or not they are entitled to the raises be dependent on whether the Government is willing to impose additional taxes out of which they shall be paid.

I think the point of order is clearly well taken, and I think from every point of view it ought to be sustained.

Mr. McCORMICK obtained the floor.

Mr. FESS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Ohio?

Mr. McCORMICK. I yield.

Mr. FESS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Dill	King	Ralston
Bayard	Ernst	McCormick	Ransdell
Bingham	Fernald	McKellar	Reed, Mo.
Borah	Ferris	McKinley	Sheppard
Brookhart	Fess	McLean	Shields
Broussard	Frazier	McNary	Shipstead
Bruce	George	Mayfield	Shorridge
Bursum	Gerry	Means	Simmons
Butler	Gooding	Metcalf	Smith
Cameron	Hale	Moses	Spencer
Capper	Harris	Neely	Stanfield
Caraway	Harrison	Norbeck	Sterling
Copeland	Heflin	Oddie	Swanson
Couzens	Johnson, Calif.	Overman	Underwood
Cummins	Johnson, Minn.	Owen	Wadsworth
Curtis	Jones, Wash.	Pepper	Walsh, Mass.
Dale	Kendrick	Phipps	Watson
Dial	Keyes	Pittman	Willis



Mr. JONES of Washington. I desire to announce that the senior Senator from Delaware [Mr. BALL] is necessarily absent on business of the Senate.

The PRESIDING OFFICER (Mr. ASHURST in the chair). Seventy-two Senators have answered to their names. A quorum is present. The Chair recognizes the Senator from Illinois.

Mr. McCORMICK. Mr. President, the Senator from Missouri [Mr. REED] yesterday, so it seemed to me, made more clearly manifest than has any other Senator the issue before us. I recognize that in a parliamentary body it is perhaps sometimes necessary to invoke the good offices of parliamentary experts whose capacity to refine distinctions passes the comprehension of ordinary men. Some of those who have joined in this debate remind me of the theologians of Alexandria and Byzantium. After all, whatever the decisions of the courts or of the Chair may have been on the pending point of order, the rule of reason must govern.

It is asserted that this is a revenue bill—a revenue bill when the Post Office is engaged in active competition with private enterprise, when the Post Office conducts a savings bank, when the Post Office forwards money orders, when the Post Office makes a special charge to deliver some letters more promptly than others, and when the Post Office is engaged in the express business in competition with the private express monopoly formed by permission of Secretary McAdoo. The conditions in the Post Office to-day are not identical or even analogous to those which obtained at the time of the decision by the Supreme Court in 1851 of the case cited by the Senator from Virginia [Mr. SWANSON]. I may suggest that after that time the Dred Scott decision regarding the fugitive slave law was handed down and the American people passed adverse judgment upon it.

If we are to act upon a measure which has to do with Government competition with private service, with its employment of individuals who thereby become competitors of the employees of private enterprises, we are not acting upon a revenue measure. We are dealing with the Post Office as an agency in the service of the people. It was intended to raise the pay of postal employees precisely as the pay of employees in other like lines of business have been raised.

The President has declared that he will not consent that the pay of those postal employees be raised unless the service in which they are engaged is placed upon a self-sustaining or nearly self-sustaining basis.

A point of order has been raised against Title II of the measure, a point of order raised in order to strike from the bill Title II regarding charges for service even at the risk that the pay of the postal employees may not be raised. I think there is a general belief on the floor of the Senate that some of those who are interested in sustaining the point of order are more concerned with the political advantage to be gained than they are either with the prerogatives of the other Chamber or with the advance of salaries of postal employees. Those who have—as I have not—discussed at length the point of order in the light of the decisions of the courts and the Presiding Officers of the Houses of Congress have none the less indulged in speeches about the character of the bill and about the postal employees. If the point of order is sustained, those who sustain it know full well that there is every probability that there will be no increase in the pay of postal employees, and that, although the responsibility will be theirs, they will seek to place it upon Senators on this side of the Chamber or upon the President of the United States.

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from New York?

Mr. McCORMICK. I yield.

Mr. COPELAND. Is not that where the responsibility belongs?

Mr. McCORMICK. The Senator from New York is always confident, if not always accurate, in assertions. Did the Senator rise to ask me a question?

Mr. COPELAND. I was hoping that the Senator would answer the question I propounded.

Mr. McCORMICK. I thought the Senator had made a statement.

Mr. COPELAND. No; I asked the Senator if the responsibility for the defeat of the postal salary increase bill should not rest with the Republican Party and the Senator's colleagues on the other side of the aisle?

Mr. McCORMICK. I will answer that if the pending measure in the general terms reported by the Senator from New Hampshire [Mr. MOSES] is defeated the responsibility indubitably will be on the other side of the aisle.

Mr. COPELAND. I assume from the answer of the Senator that he admits that up to this time the responsibility for the defeat of the postal salary increase lies at the door of the Republican Party.

Mr. McCORMICK. The Senator is entitled to assume what he may, whether with regard to the pending bill or the title to the Isle of Pines.

Mr. COPELAND. I hope the Senator is not so wrong on the pending bill as he is on the Isle of Pines. However, I would be glad if he would let us know what attitude the Republican Party is taking regarding the increase of salaries for the postal employees who have worked so valiantly for the bill, and who are so thoroughly entitled to its enactment into law.

Mr. McCORMICK. I have noticed that recently the Senator from New York has become the spokesman for the party in his State. Will he speak for the party here in the Senate?

Mr. COPELAND. Of course, I may say in reply to that—

Mr. McCORMICK. Since Governor Smith has been de-throned?

Mr. COPELAND. I doubt exceedingly if the Senator from Illinois can quite speak for the Republican Party of his State.

Mr. McCORMICK. I have not pretended to speak for the Republican Party.

Mr. COPELAND. That is the reason, I suppose, why the Senator is not willing to answer the question I asked a little while ago, whether or not his party is responsible for the defeat of the postal salary bill.

Mr. McCORMICK. That is not the reason. There is a division on this side of the Chamber upon the point of order precisely as there is a division on the other side of the Chamber, as the Senator very well knows.

Mr. PEPPER. Mr. President, will the Senator yield for a moment?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Pennsylvania?

Mr. McCORMICK. I yield.

Mr. PEPPER. Referring to the two cases which were brought to the attention of the Senator from Illinois while he was speaking by the Senator from Virginia [Mr. SWANSON], I desire to say that the Senator from Missouri [Mr. REED] called my attention to the following reference to both of them which is made by the Supreme Court of the United States in United States against Norton, in Ninety-first United States, at page 569. The reference is this:

The cases of United States v. Bromley (12 How. 88) and United States v. Fowler (4 Blatch. 311) are relied upon by the counsel for the United States.

Those are the two cases to which I refer and which were mentioned by the Senator from Virginia—

Both these cases are clearly distinguishable with respect to the grounds upon which the judgment of the court proceeded from the case before us. It is unnecessary to remark further in regard to them.

Mr. McCORMICK. The Senator from Virginia is conveniently absent from the Chamber.

Mr. President, let me repeat that the Senator from Missouri [Mr. REED] made plain the issue before the Senate. This bill does not involve the levying of taxes upon the whole people—that is, the collecting of revenue—but it deals with the imposition of charges upon certain people for services rendered to those people by the Government like or identical to services rendered by private enterprise. If the Government is to engage in such service, then the Legislature of the Government must be able to legislate in order that the Government may compete upon reasonably equitable conditions with private enterprise.

If there had been no disposition to raise a political issue here in the Senate, the discussion of the point of order by those who have supported the contention of the Senator from Virginia would have confined themselves to the point of order, but even my friend, the Senator from North Carolina [Mr. SIMMONS], after alluding to precedents and prerogatives and constitutional powers, embarked upon a discussion of the measure and found fault with its terms, debating it not as if it were out of order but as if its provisions were the major issue and contending that it was faulty in construction.

Mr. BAYARD. Mr. President—

Mr. McCORMICK. I yield to the Senator from Delaware.

Mr. BAYARD. I would suggest the following quotation from the veto message of the President of last June, which is found on page 3:

For the fiscal year 1923 the postal revenues were \$32,000,000 less than the cost of the service for that year.



So the President of the United States used the word "revenues" with regard to the result of the raising of the postal rates. I do not see how the Senator can get away from the fact that this is a revenue bill.

Mr. McCORMICK. But, Mr. President, one may say that the income of a railroad is its revenue, may he not? I think that is hairsplitting in which the Senator from Delaware will hardly care to indulge.

Mr. BAYARD. I will say to the Senator from Illinois that I merely made that quotation from the President's message because of the fact that the Senator himself was referring to various enterprises in the country which, from his point of view, came in contact with the operations of the Government; and he is using that to base his argument on in order to show that these were not revenue measures but were mere fiscal measures of the Government, separate and apart from any revenue measures. I was quoting from the President, who vetoed this measure and who used the very word "revenues" in connection with the return from postal operations.

Mr. McCORMICK. I still insist that the use by the President of the term "revenues" in that connection does not imply that the charges under this bill constitute revenue under the terms of the Constitution any more than the incomes of railroads accruing from freight and passenger fares are revenues because they are sometimes so described.

#### THE FRENCH DEBT

Mr. BRUCE. Mr. President, yesterday when I was engaged in a colloquy with the Senator from Idaho [Mr. BORAH] he abruptly shut off the prosecution of my interruption by saying that he did not want me to introduce any incorrect history into his speech. How far this curt disposal of my interruption was consistent with the ordinary amenities of parliamentary intercourse I will leave the Senator to determine for himself in his more meditative moments; but if by that statement the Senator intended to ascribe to himself any extraordinary degree of accuracy as a historian, I beg leave to say that about the only correct history in his speech was that which I contrived to inject into it. [Laughter.]

When I made the statement that France not only loaned large sums to the people of the United Colonies during the War of the Revolution but made large gifts to them also, and when I recalled a gift of no less than 6,000,000 livres made by France to the people of the United States during that Revolution the Senator said:

That took place, as the Senator must know, because at the time Franklin applied for that loan the French Government was not willing to risk its chances with the American Colonies, and they never did take the risk until after the Battle of Saratoga. Therefore they transmitted this loan—this gift, if the Senator prefers to call it such, which afterwards transformed itself into a loan—through certain individuals from whom Franklin got it.

The surrender of Burgoyne at Saratoga took place on October 17, 1777. The gift of 6,000,000 livres was not made until the year 1781, and that fact is evidenced by the exhibit itself, which the Senator from Idaho has had inserted in the CONGRESSIONAL RECORD in connection with his speech.

It had no connection whatsoever with the subsidies that America received from France and Spain through the agency of Beaumarchais. As evidenced by the Senator's exhibit, those subsidies amounted to some 3,000,000 livres. Two millions of that amount was advanced in 1776 to Beaumarchais by the French Government for the purpose of assisting the American colonists, and another million was advanced in the same year to him by Spain for the same purpose. Franklin had no connection whatever with those subsidies. He did not even arrive in France until the latter part of the year 1776. Silas Deane, not Franklin, was our minister at the Court of France during that year, and, even after Deane, Franklin, and Arthur Lee were appointed our ministers to Paris, all transactions that our country had with Beaumarchais, or the commercial house of Roderique Hortalez & Co., which was the screen for these transactions, were conducted by Beaumarchais with Silas Deane alone. Deane alone was privy on behalf of America to the Beaumarchais operations.

I shall not pause to read in detail the statements in the Life of Franklin, by James Parton, which sustain these allegations. He is perhaps the most authoritative biographer of Benjamin Franklin; and upon his testimony, as well as upon other testimony that I could readily cite, I base my assertion that, after what he said about my inaccuracy, the Senator from Idaho has fallen into complete, irredeemable error when he connects the gift of 6,000,000 livres of which I have spoken with Beaumarchais. The six millions, as I have said, were

given by France to the United States in the year 1781, and this, too, is shown by the Senator's exhibit; and I desire to pause just for a moment to bring to the attention of the Senate the circumstances under which that splendid gift was made.

I refer to Parton's Life of Benjamin Franklin, volume 2, page 391. Parton states that Franklin was instructed to ask for a loan of 25,000,000 of francs from France. He made the application, and then Parton goes on and describes the result:

He had to wait three anxious weeks for an answer, during which arrived Col. John Laurens, the minister sent expressly by Congress to promote the loan. The arrival of Colonel Laurens gave Doctor Franklin an excuse for pressing his request anew upon the Count de Vergennes, who sent for him at length. "He assured me," Franklin wrote, "of the King's good will to the United States; remarking, however, that being on the spot, I must be sensible of the great expense France was actually engaged in and the difficulty of providing for it, which rendered the lending us twenty-five millions at present impracticable. But that to give the States a signal proof of his friendship, His Majesty had resolved to grant them the sum of six millions not as a loan but as a free gift. This sum, the minister informed me, was exclusive of the three millions which he had before obtained for me to pay the Congress drafts for interest expected in the current year."

Parton continues:

It was a timely and precious gift. It enabled Doctor Franklin to sustain the credit of America in Europe, and it contributed essentially to the success of the campaign which ended in the surrender of Lord Cornwallis at Yorktown.

And I may add that when Franklin was instructed to apply to France for the loan of 25,000,000 of francs George Washington wrote to him—this was just before the Revolutionary campaign of 1781—

We must have one of two things, peace or money from France.

Mr. BORAH. Mr. President, do I understand that the Senator is reading from James Parton?

Mr. BRUCE. I am reading from James Parton. I gave the volume and the page.

Mr. BORAH. The Senator will recall an incident in the life of James Parton which illustrates his historical worth. White-law Reid at one time introduced James Parton to a literary club in New York as the great American novelist.

Mr. BRUCE. Did he? Well, I think this is a case where truth is stranger than fiction, perhaps.

Mr. BORAH. "Perhaps" is good.

Mr. BRUCE. This is one case, at any rate, in which fiction rests upon a solid basis of historic truth.

But I need not turn—and nobody knows it better than the Senator from Idaho—to Parton in confirmation of what I have been saying, because, as I have said, the fact of this gift of 6,000,000 of livres, though the Senator from Idaho seemed to be unconscious of that fact, was evidenced by the very exhibit that he inserted in the RECORD in association with his speech. Such was the spirit in which George Washington regarded the significance of that gift; such was the spirit in which Benjamin Franklin regarded its significance; and that it was precious at that particular crisis in the history of our country does not rest upon the mere asseveration of James Parton or any other historian, but upon unquestionable contemporary testimony.

Let us inquire just a little more in detail what impression the gift made upon the mind of Franklin at that time. It was made, of course, when our country was weak and enveloped with doubt and uncertainty, not to say despair. When the Senator from Idaho spoke yesterday he was speaking in the plenitude of our amazing power, when the relative positions of France and of the United States of America at the time of the Revolution had been completely reversed; and when it was no longer the United States that was approaching France and asking for favors, but France approaching the United States and asking for them. As there is no other authority readily at hand, I take the liberty of quoting from a work of Benjamin Franklin, Self-Revealed, in which I personally have had something to say on this subject:

He [Franklin] was generously prompt always also to ascribe any temporary interruption to the flow of French subsidy to the pressing necessities of France herself. Full, too, always he was of simple-hearted gratitude to France for the princely help that she had given to the American cause. No one knew better than he that this help originated partly in selfish policy, and was continued partly because it had been extended too liberally already to be easily discontinued. "Those, who have begun to assist us," he shrewdly observed to Jay, when counseling him that every first favor obtained from Spain was tant de gagné, "are more likely to continue than



to decline." Every appeal that he ever made in his life to liberality in any form took the bias of self-interest duly into account. But he was merely true to his settled principle that human character is an amalgam of both unselfish and selfish motives, when, realizing that the aid rendered by France to the United States originated partly in the glow of a generous enthusiasm for the cause of human liberty and fraternity, he wrote to Robert R. Livingston on August 12, 1782, in a letter in which, after stating that the whole amount of the indebtedness, then due by the United States to France, amounted to 18,000,000 livres, exclusive of the Holland loan guaranteed by the King of France, he said—

And it is to these words especially that I invoke the attention of the Senate—

In reading it—

Franklin was referring to a statement of an account between the United States and France which had been presented to him recently by the French minister—

In reading it [a statement of the account] you will discover several fresh marks of the King's goodness toward us, amounting to the value of near two millions. These, added to the free gifts before made to us at different times, form an object of at least twelve millions, for which no returns but that of gratitude and friendship are expected. These, I hope, may be everlasting.

In a subsequent letter to Vergennes, Franklin referred to the King as our "friend and father." But naturally enough deep-seated gratitude found its most impressive utterance when the long and bloody war was at an end, the independence of the United States fully established, and Franklin ready, as he wrote to Robert R. Livingston, to say with old Simeon, "Now lettest thou thy servant depart in peace, for mine eyes have seen thy salvation."

There are further words of gratitude uttered by him:

May I beg the favor of you, sir, [he wrote to Vergennes, when he was soon to leave France forever], to express respectfully for me to His Majesty, the deep sense I have of all the inestimable benefits his goodness has conferred on my country; a sentiment that it will be the business of the little remainder of life now left me, to impress equally on the minds of all my countrymen. My sincere prayers are, that God may shower down His blessings on the King, the Queen, their children, and all the royal family to the latest generations.

How any man can read those kindling words and then dwell in any strain of ignoble criticism upon the country which called them forth, is more than I, at any rate, can understand.

So much for the inaccuracy of the Senator from Idaho with regard to the origin of this gift of 6,000,000 livres. Now, until some more substantial testimony to the contrary has been brought to my attention than has yet been brought to it, I think that he was equally inaccurate when he stated that this gift was paid back. I find no evidence of the fact in the exhibit that he has had recorded with his speech. Nor have I ever seen such a fact stated by any biographer of Franklin or any authoritative book of any kind relating to Franklin.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Idaho?

Mr. BRUCE. I do, even at the risk of having some incorrect history inserted in my speech.

Mr. BORAH. No; I am not going to insert any history at all.

Mr. BRUCE. No; the Senator had better try fiction.

Mr. BORAH. I was going to say that if the Senator has any evidence himself that it was not paid, I will accept it.

Mr. BRUCE. Evidence! When a thing is a gift, it is a gift; and when the fact is established that a gift has been made, the presumption, of course, is that it has never been treated as a loan and paid back.

Mr. BORAH. I understand that is the Senator's only answer?

Mr. BRUCE. It is my answer, and it is an unanswerable answer, I think.

Mr. BORAH. Yes; I think it is, in the way it is put.

Mr. BRUCE. An unanswerable answer, I believe.

Mr. BORAH. I quite agree with the Senator, if the Senator's conclusion is that there is no answer to it.

Mr. BRUCE. That exhibit shows that all the loans made by France were either paid back by 1795 or reduced to the form of 4½ per cent and 5 per cent stock, some of which was paid off at the beginning of the nineteenth century, and some as late as the year 1815; but nowhere in that exhibit, nowhere in any biography of Franklin, nowhere in any authoritative publication of any kind, I venture to say, though I speak subject to correction, can be found the slightest scintilla of evi-

dence going to show that one single dollar that the United States of America received in the gift of 6,000,000 livres from France was ever paid back to France.

Mind you, as that exhibit shows, too, this gift of 6,000,000 livres was not the only gift received by the people of the United Colonies from France during the War of the Revolution. There was another gift through Franklin of 2,000,000 livres, in 1777, making the whole amount of the gifts given by France to the people of the United Colonies, including the subsidy of 2,000,000 livres received by Beaumarchais from France in Spain in 1776, 10,000,000 livres—a sum equivalent, in terms of American money, to \$1,815,000, and a sum, though I do not pretend to speak at this moment with any exactitude upon such a point, as that, probably four or five times greater in point of purchasing power than the same sum of money would be to-day.

So, if I were disposed to indulge in a spirit of rash assertion, such as I conceive the Senator from Idaho to have indulged in to some extent when he brushed me so quickly aside, I should say that his speech in regard to these historical incidents was highly inaccurate.

I admire the rare abilities of the Senator from Idaho; I admire his persuasive eloquence; I admire his integrity of character; I admire his independent, fearless spirit. When I came to this body, a stranger and unknown, he was one of the first of its older Members who held out to me the hand of cordial fellowship, and I am sure that if he had had just a little more time to give to this matter what he said would have been marked by his usual accuracy. But, highly as I think of the Senator in every other respect, if I were to judge of him as a historian by what he said yesterday I should say that he was one of the most untrustworthy historians that ever came to my knowledge in the range of my humble historical labors.

When the Senator speaks of France being governed entirely by selfish motives in coming to the aid of the colonists, he fails to draw the distinction, as I apprehend it, between the French Government and the French people. Of course, Louis XVI was a king. His trade was that of a king—a crowned head. Naturally enough, the spectacle of a people rising up in insurrection on the other side of the ocean and defying the armed power of their sovereign was one that he, at least, did not relish. Nor of course did his minister, Turgot, who shared his responsibilities, relish it, and there is no question in the world that the participation of France in the American Revolution was to no small extent inspired by the hostility of France to England, by the wish to wound her, to injure her, to maim her, to separate her from her valuable colonies. That those considerations entered into the executive policy of France at the beginning of the American Revolution no one can gainsay, but equally hard it would be to gainsay the fact that king and minister and government were all hurried into the alliance between France and the people of America by the passionate sympathy which the people of France came to feel for the cause of American liberty.

Why, in order to establish his views should the Senator from Idaho have turned to the history of the United States by Woodrow Wilson, whose history, I say with great respect, is regarded with very little favor by any true historical student, remarkable as the intellectual powers and public services of Woodrow Wilson were in many respects.

And why should the Senator from Idaho refer to Alexander Hamilton, above all men of the world, in support of his claim that France was animated solely by selfish motives in taking a part in the American cause? Hamilton was a native-born Englishman. All his prepossessions were in favor of the English monarchical form of government. He shared all the old, immemorial hatred of his people for the French. He felt like the character in Shakespeare who said:

I thought upon one pair of English legs  
Did march three Frenchmen.

Of course, he approached such a subject with an absolutely inveterate, irrepressible bias against France. And if the utterance of his referred to by the Senator was made after the deadly feud that sprang up between him and Thomas Jefferson, who, of course, was a devoted friend of the French people, there was all the more reason, in view of the rivalry that existed between him and Jefferson, why he should have no tolerance of comment whatever for France and be unwilling to acknowledge that she had been actuated by generous motives in assisting the American Colonies.

Let us turn rather to what, after all, is the only true testimony with regard to any historical controversy; that is, to the best contemporary testimony. First of all, let us refer to



Count Sigur, one of the ornaments of the French court, as to the general state of the French mind in relation to America and its cause at the beginning of the American Revolution.

Says Count Sigur:

It would be difficult to describe the eagerness and delight with which the American envoys—the agents of a people in a state of insurrection against their monarch—were received in France, in the bosom of an ancient monarchy. Nothing could be more striking than the contrast between the luxury of our capital, the elegance of our fashions, the magnificence of Versailles, the still brilliant remains of the monarchical pride of Louis XIV, and the polished and superb dignity of our nobility, on the one hand, and, on the other hand, the almost rustic apparel, the plain but firm demeanor, the free and direct language of the envoys, whose antique simplicity of dress and appearance seemed to have introduced within our walls, in the midst of the effeminate and servile refinement of the eighteenth century, some sages contemporary with Plato, or republicans of the age of Cato and of Fabius. This unexpected apparition produced upon us a greater effect in consequence of its novelty and of its occurring precisely at the period when literature and philosophy had circulated amongst us an unusual desire for reforms, a disposition to encourage innovations and the seeds of an ardent attachment to liberty.

All this is strikingly corroborated by Thomas Jefferson, who, as we all know, became our minister to France after Franklin had left that country. Speaking of the French Revolution, Jefferson said:

Celebrated writers of France and England had already sketched good principles on the subject of government; yet the American Revolution seems first to have awakened the thinking part of the French nation in general from the sleep of despotism in which they were sunk. The officers, too, who had been to America were mostly young men less shackled by habits and prejudice and more ready to assent to the suggestions of common sense and feeling of common rights than others. They came back with new ideas and impressions. The press, notwithstanding its shackles, began to disseminate them; conversation assumed new freedoms. Politics became the theme of all societies, male and female, and a very extensive and zealous party was formed which acquired the appellation of the Patriotic Party who, sensible of the abusive government under which they lived, sighed for occasions of reforming it. This party comprehended all the honesty of the kingdom sufficiently at leisure to think—the men of letters, the easy bourgeois, the young nobility—partly from reflection, partly from mode; for these sentiments became matter of mode, and as such united most of the young women to the party.

In other words, so universal was the popular sympathy of the French with American ideas of liberty, that the American cause became even the mode with the young women of France.

I ask whether, in the face of such contemporary testimony as that, it is possible for anyone reasonably to declare that in espousing the cause of American independence France was influenced solely by selfish motives. When our rebellion began she was feeling the premonitions of her own subsequent revolution. Her people were laboring under a frightful load of feudal tyranny. They were bowed down to the very earth by all sorts of oppressive taxation, and by the special privileges of caste in many forms. They were already more or less ripe for revolt, though they scarcely realized in their own hearts the extent to which they were.

As I said yesterday, the ideas and the sentiments of the American Revolution were stirring in their veins as the vernal sap stirs in the limb of a tree in the springtime. That is the real reason why Franklin, when he lived in France, was acclaimed as he was. That is the real reason why hundreds of medallions of his face were struck off and distributed far and wide among the people of France, and why portrait after portrait was painted of him and bust after bust fashioned of him, and why he was revered and idolized and adored as he was. Of course, his greatness was such that he needed no artificial aids of any kind to be a conspicuous figure in Paris or any other capital in the world. But he never would have been the renowned figure that he was, the world figure that he was, if the French people had not seen in him a glorious exemplar of the new spirit of freedom that was bringing the United States of America into the great family of free and independent nations.

As for Lafayette, he was but one of the many young Frenchmen who left France to unsheathe their swords in the cause of America. So many French officers were eager to cross the ocean and engage in our war of independence that the matter finally became a source of vexation and to some extent of merriment to Benjamin Franklin. It was only because of the peculiar nobility of his character, because of his high social position, because of the special circumstances under which he

left France that Lafayette rather than many another young Frenchman became the fresh, captivating, immortal figure that he is.

Let the Senator from Idaho take my advice in one respect, if he should never take it in another, and sit down and see with what little popular success he could rewrite the school history of the people of the United States in consonance with his peculiar ideas about the events that led to the alliance between France and the American Revolution. He seems to think that because we gave Lafayette a sum of money and a considerable tract of land our debt of everlasting gratitude to him was discharged. I do not so construe the meaning of gratitude. If the Senator from Idaho were, at considerable sacrifice to himself, to loan me the sum of \$1,000 and I afterwards paid it back to him, I would not think that my debt to the Senator was completely discharged. It would be discharged, of course, in its pecuniary aspects, but in its moral aspects never. When Lafayette received that sum of money and that tract of land from the people on those shores of which he spoke in one of his letters to Jefferson as "the blessed shores of liberty," the debt that we as a people owed him was not extinguished. From that day to this we have loved to honor him in all the ways in which the profoundest respect and affection of a people manifest their sense of imperishable gratitude.

I agree substantially with the Senator from Idaho in what he said yesterday with regard to the general features of the French debt. The most searching questions that can be asked of the individual are how honorably does he meet his debts and other moral obligations in time of peace; how ready is he to lay down his life in time of war?

Those questions involve the supreme tests of individual character. They involve also the supreme tests of national character. Of course, France must pay her debt to us. She should be scrupulous enough to avoid even any appearance of evasion or shabby indifference with regard to paying it. I will not permit myself to doubt that when the time comes she will make a faithful, earnest effort to do all that she can toward its payment; but, in the meantime, I do say that when the representatives of this great country, the wealthiest and the most powerful upon the globe, shall take up for settlement the matter of the French debt, they should at least not forget those extraordinary gifts that she made to us in the hour of our peril, anxiety, and distress.

The finest thing in the life of this Nation is not its splendid material achievements, not its extensive acquisitions of territory, not even the determined spirit with which it has always defended its national rights, but the spirit in which in recent years it has dealt with foreign and weaker peoples when they had some real moral claim upon our consideration. If I were to single out the most admirable thing, perhaps, in our entire history, the event that sheds upon us as a people the highest degree of credit, I should single out the return of the Boxer indemnity to China. I might speak also of the generous spirit that we have imported into our relations to our territorial dependencies, the mingled sagacity and magnanimity that inspired us to go down to Cuba and to confer upon her people the priceless boon of freedom, and yet afterwards to retire as we did in honor from her shores. Here is still another opportunity, within sensible, practical limits, to exhibit again a certain amount of nobility of feeling and purpose.

The amount that France gave us is, after all, in terms of modern wealth, but small; it is not so much in a pecuniary sense; but if we were to deduct the total sum of those gifts from what France owes to us, I think that the moral value of the concession would be almost inestimable. We should then have made, at least, some sort of return for the valuable services that France rendered to us during the War of the Revolution, because, even though the Senator from Idaho and I should differ with regard to every other historical question that enters into this discussion, I think we would both agree that but for the aid of France in men and arms and munitions of war we should never have achieved our independence as a people.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Will the Senator from Maryland yield to the Senator from Idaho?

Mr. BRUCE. I was about to take my seat. However, I yield to the Senator with pleasure.

Mr. BORAH. Then I will not interrupt the Senator.

Mr. BRUCE. That is all right.

Mr. BORAH. I was merely going to say that I could not agree with the conclusion just stated by the Senator from Maryland. Notwithstanding the fact that I think that there



was substantial aid rendered us by France, for which we are very grateful, I could not concede that we could not have won our independence without the aid of France, for the tide had distinctly turned in our favor and Lord North had announced his conciliatory plan before France entered the war at all upon our behalf.

Mr. BRUCE. But he would not have announced it but for the fear of a French alliance. I agree with the Senator from Idaho in believing that in process of time, unless the whole attitude of the British Government toward us had undergone an alteration, we should have acquired our national freedom, because the increase in American wealth and population was such that in a few generations it would have been absolutely impossible for any other nation on earth, however powerful, to have kept us in chains.

Mr. DILL. Mr. President, a few days ago I made some observations regarding the history of the loans of France to this Government and our payment of them, but I did not think they would form a preface to what has developed into a most interesting discussion between the Senator from Idaho [Mr. BORAH] and the Senator from Maryland [Mr. BRUCE]. I think, therefore, I might be permitted to take a few moments to make a sort of addendum to the discussion.

In his desire yesterday to enforce his argument in support of his contention that France should not disregard her debt to this country the Senator from Idaho omitted, to say the least, some historical facts that are worth remembering in connection with the settlement of our Revolutionary debt to France. While it is true that we made an agreement with France in 1782 to pay what we owed, I think the authorities are agreed—and I find nothing in the Senator's statement in the RECORD to disprove it—that the French King did forgive the interest that had accrued on the loans up to that date. Furthermore, while that agreement provided that we should begin payment within three years after the conclusion of peace, the authorities agree that we did not begin to pay on our debt until after the Constitution was adopted and the new Government was set in motion, for the simple reason that under the Articles of Confederation we could not raise the money.

It is worth remembering also that it was through the credit of France, if not her own treasury, that after the Revolution was over the United Colonists were able to borrow enough money in Europe to finance their representatives abroad and even to establish the new Government and put it into operation.

I refer to this as an explanation of my statement that the Senator from Idaho omitted some things when he said that we paid promptly all our debt to France. It is true that as soon as the new Government was able to raise the money it did so, and settled all of our debt with France on time, as provided by the agreement of 1782.

I do not mention these facts in any way to give ground to anyone to believe that France should be allowed to disregard her debt to us, but I do mention them in the interest of fairness to the history of the early association of the colonists with the French Government at that time.

For my own part, I can see nothing to be gained at this time by our belittling in any way the assistance that France gave to the colonists in the days of trial in their trouble with England. I agree with the Senator from Maryland that without the aid of France the Revolution would have failed; or if not, it would have been prolonged for many years. Her service and her help to us were almost as valuable as our service and our help to her during the late war.

Neither, Mr. President, can I see anything to be gained on the part of France by belittling the assistance that we rendered in the World War to her, for, as suggested yesterday, we did help to save her life. We paid the debts which we incurred during the Revolution in order to save the Revolutionary cause and to enable the united colonists to form a republic, and we accepted certain gifts and offsets of interest on the part of the French Government. So, I think that to-day France ought to pay the debt she owes us, but that we should meet her in the same liberal, generous spirit that her representatives met our forefathers in the days of long ago.

I, for one, am not insistent that the terms shall be absolutely the same as those we have made with England. The condition of France may demand and justify better terms. Her condition should be taken into consideration, and we should remember, recalling the spirit of amity that has so long existed between these countries, that we can afford to be generous. Let me add that I agree absolutely that France has waited all too long and that she ought to make a proposition for settlement of the debt and make it now in order that the talk of repudiation may be stopped for all time.

#### POSTAL SALARIES AND POSTAL RATES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3674) reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes.

Mr. FESS. Mr. President, I suggest the absence of a quorum. The PRESIDENT pro tempore. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Ferris	McKellar	Shipstead
Ball	Fess	McKinley	Shortridge
Bayard	Fletcher	McLean	Simmons
Bingham	Frazier	McNary	Smith
Borah	George	Mayfield	Smoot
Brookhart	Gerry	Means	Spencer
Broussard	Gooding	Metcalf	Stanfield
Bruce	Hale	Moses	Sterling
Bursum	Harrell	Neely	Swanson
Butler	Harris	Norbeck	Underwood
Cameron	Harrison	Oddie	Wadsworth
Capper	Heflin	Overman	Walsh, Mass.
Caraway	Howell	Owen	Walsh, Mont.
Copeland	Johnson, Calif.	Pepper	Warren
Couzens	Johnson, Minn.	Philips	Watson
Cummins	Jones, Wash.	Pittman	Weller
Dale	Kendrick	Ralston	Wheeler
Dial	Keyes	Reed, Mo.	Willis
Dill	King	Sheppard	
Ernst	McCormick	Shields	

Mr. FESS. The Senator from Kansas [Mr. CURTIS] is indisposed and unavoidably absent from the Chamber.

The PRESIDENT pro tempore. Seventy-eight Senators have answered to the roll call. There is a quorum present. The Secretary will call the roll upon the pending question.

Mr. WILLIS. Mr. President, will the Chair again state the question for the information of the Senate?

The PRESIDENT pro tempore. The question is, Will the Senate sustain the point of order raised by the Senator from Virginia [Mr. SWANSON]? The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. BAYARD (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. REED], who is absent. I transfer that pair to the junior Senator from New Jersey [Mr. EDWARDS] and will vote. I vote "yea."

Mr. FESS (when Mr. CURTIS's name was called). The Senator from Kansas [Mr. CURTIS] has a general pair with the Senator from Arkansas [Mr. ROBINSON]. Were the Senator from Kansas present, he would vote "nay."

Mr. ERNST (when his name was called). I transfer my general pair with the senior Senator from Kentucky [Mr. STANLEY] to the junior Senator from Wisconsin [Mr. LENROOT] and will vote. I vote "nay."

Mr. MCLEAN (when his name was called). I transfer my general pair with the junior Senator from Virginia [Mr. GLASS] to the senior Senator from New Jersey [Mr. EDGE] and will vote. I vote "nay."

Mr. OWEN (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. ELKINS] to the Senator from Florida [Mr. TRAMMELL] and will vote. I vote "yea."

The roll call was concluded.

Mr. DALE. My colleague [Mr. GREENE] is unavoidably detained. If he were present, he would vote "nay."

Mr. HARRISON. I desire to announce that my colleague [Mr. STEPHENS] is unavoidably absent. He has a pair on this question with the senior Senator from Vermont [Mr. GREENE]. If my colleague were present and at liberty to vote, he would vote "yea."

I desire also to announce that the senior Senator from Arkansas [Mr. ROBINSON] is unavoidably absent. He has a pair on this question with the senior Senator from Kansas [Mr. CURTIS]. If the senior Senator from Arkansas were present, he would vote "yea."

Mr. JONES of Washington. I desire to announce that the Senator from Maine [Mr. FERNALD] has a general pair with the Senator from New Mexico [Mr. JONES].

The result was announced—yeas 29, nays 50, as follows:

#### YEAS—29

Ashurst	Fletcher	Norbeck	Simmons
Bayard	Frazier	Overman	Swanson
Brookhart	Harris	Owen	Underwood
Broussard	Harrison	Pittman	Walsh, Mass.
Caraway	Heflin	Ralston	Wheeler
Copeland	Kendrick	Ransdell	
Dill	Mayfield	Shields	
Fess	Neely	Shipstead	



## NAYS—50

Ball	Ferris	McKellar	Smith
Bingham	George	McKinley	Smoot
Borah	Gerry	McLean	Spencer
Bruce	Gooding	McNary	Stanfield
Bursum	Hale	Means	Sterling
Butler	Harrell	Metcalf	Wadsworth
Cameron	Howell	Moses	Walsh, Mont.
Capper	Johnson, Calif.	Oddie	Warren
Couzens	Johnson, Minn.	Pepper	Watson
Cummins	Jones, Wash.	Phipps	Weller
Dale	Keyes	Reed, Mo.	Willis
Dial	King	Sheppard	
Ernst	McCormick	Shortridge	

## NOT VOTING—17

Curtis	Glass	Lenroot	Stephens
Edge	Greene	Norris	Trammell
Edwards	Jones, N. Mex.	Reed, Pa.	
Elkins	Ladd	Robinson	
Fernald	La Follette	Stanley	

So the Senate refused to sustain Mr. SWANSON's point of order that Title II of the bill down to section 217 is repugnant to the Constitution of the United States, which requires that revenue measures shall originate in the House of Representatives.

## EXECUTIVE SESSION

Mr. MOSES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

## RECESS

Mr. MOSES. I move that the Senate take a recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate took a recess until to-morrow, Saturday, January 24, 1925, at 12 o'clock meridian.

## NOMINATIONS

*Executive nominations received by the Senate January 23 (legislative day of January 22), 1925*

## MEMBER OF THE FEDERAL FARM LOAN BOARD

Robert A. Cooper, of South Carolina, to be a member of the Federal Farm Loan Board, for a term of eight years expiring August 5, 1932. Mr. Cooper is now serving under temporary commission issued during the recess of the Senate.

## APPOINTMENT IN THE REGULAR ARMY

## VETERINARY CORPS

*To be second lieutenant*

Second Lieut. Ernest Eugene Hodgson, veterinary, Officers' Reserve Corps, with rank from January 15, 1925.

## APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

## SIGNAL CORPS

Capt. Alfred Marston Shearer, Infantry (detailed in Signal Corps), with rank from July 1, 1920.

## PROMOTIONS IN THE REGULAR ARMY

## TO BE COLONELS

Lieut. Col. John Lawrence Bond, Infantry, from January 16, 1925.

Lieut. Col. Edward Raymond Stone, Infantry, from January 18, 1925.

## TO BE LIEUTENANT COLONELS

Maj. William Francis Morrison, Field Artillery, from January 16, 1925.

Maj. Victor Sidney Foster, Cavalry, from January 18, 1925.

## TO BE MAJORS

Capt. Michael Frank Davis, Air Service, from January 16, 1925.

Capt. John Fuller Davis, Cavalry, from January 18, 1925.

## TO BE CAPTAINS

First Lieut. Christopher William Ford, Air Service, from January 16, 1925.

First Lieut. James Eugene Smith, Quartermaster Corps, from January 16, 1925.

First Lieut. Biglow Beaver Barbee, Finance Department, from January 18, 1925.

## TO BE FIRST LIEUTENANTS

Second Lieut. Frank Joseph Vida, Infantry, from January 16, 1925.

Second Lieut. Harold Patrick Henry, Infantry, from January 16, 1925.

Second Lieut. Harry Woldren French, Infantry, from January 16, 1925.

Second Lieut. Dwight Joseph Canfield, Air Service, from January 18, 1925.

APPOINTMENT IN THE OFFICERS' RESERVE CORPS OF THE ARMY  
TO BE BRIGADIER GENERAL

Henry Dozier Russell, brigadier general Georgia National Guard.

## PROMOTIONS AND APPOINTMENTS IN THE NAVY

Commander Donald C. Bingham to be a captain in the Navy from the 1st day of January, 1925.

Lieut. Commander Jere H. Brooks to be a commander in the Navy from the 17th day of October, 1924.

Lieut. Commander Samuel A. Clement to be a commander in the Navy from the 23d day of December, 1924.

Lieut. Commander Laurence Wild to be a lieutenant commander in the Navy from the 8th day of June, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Herbert K. Fenn to be a lieutenant commander in the Navy from the 25th day of July, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander George D. Hull to be a lieutenant commander in the Navy from the 28th day of July, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Harry P. Curley to be a lieutenant commander in the Navy from the 29th day of July, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Paul Hendren to be a lieutenant commander in the Navy from the 24th day of August, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Henry M. Briggs to be a lieutenant commander in the Navy from the 5th day of October, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Paul Cassard to be a lieutenant commander in the Navy from the 16th day of October, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Joseph Y. Dreisonstok to be a lieutenant commander in the Navy from the 26th day of October, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Commander Eric F. Zemke to be a lieutenant commander in the Navy from the 29th day of December, 1923, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Samuel S. Thurston to be a lieutenant commander in the Navy from the 5th day of June, 1924.

Lieut. Albert G. Berry, jr., to be a lieutenant commander in the Navy from the 17th day of October, 1924.

Lieut. John M. Creighton to be a lieutenant commander in the Navy from the 17th day of December, 1924.

Lieut. (Junior Grade) Guy B. Hoover to be a lieutenant in the Navy from the 1st day of July, 1920.

Ensign Sterling T. Dibrell to be a lieutenant (junior grade) in the Navy from the 3d day of June, 1924.

Lieut. (Junior Grade) Rutledge B. Tompkins to be a lieutenant (junior grade) in the Navy from the 5th day of June, 1923, to correct spelling of his name as previously nominated and confirmed.

Surg. William N. McDonell to be a medical inspector in the Navy with the rank of commander from the 30th day of June, 1924.

Surg. George S. Hathaway to be a medical inspector in the Navy with the rank of commander from the 10th day of November, 1924.

Asst. Surg. John M. Woodard to be an assistant surgeon in the Navy with the rank of lieutenant (junior grade) from the 10th day of June, 1924, to correct spelling of his name as previously nominated and confirmed.

Boatswain Fred H. Stewart to be a chief boatswain in the Navy to rank with but after ensign from the 12th day of February, 1923.

Boatswain George E. Henning to be a chief boatswain in the Navy to rank with but after ensign from the 20th day of August, 1924.

Gunner Clarence E. Delp to be a chief gunner in the Navy to rank with but after ensign from the 20th day of November, 1924.



Machinist Albert Adams to be a chief machinist in the Navy to rank with but after ensign from the 20th day of September, 1924.

Machinist Eustace G. Wilson to be a chief machinist in the Navy to rank with but after ensign from the 21st day of October, 1924.

Pay Clerk William H. Hopkins to be a chief pay clerk in the Navy to rank with but after ensign from the 20th day of August, 1924.

Pay Clerk Oscar B. Bennett to be a chief pay clerk in the Navy to rank with but after ensign from the 20th day of April, 1924.

#### POSTMASTERS

##### ARKANSAS

Samuel S. Greene to be postmaster at Reyno, Ark.. Office became presidential July 1, 1924.

##### ARIZONA

Freda B. Irwin to be postmaster at Gilbert, Ariz., in place of E. M. Lacy. Incumbent's commission expired June 5, 1924.

##### FLORIDA

Ernest C. Mahaffey to be postmaster at Quincy, Fla., in place of E. C. Mahaffey. Incumbent's commission expired June 4, 1924.

##### GEORGIA

William M. McElroy to be postmaster at Norcross, Ga., in place of W. M. McElroy. Incumbent's commission expired September 28, 1922.

Robert Turner to be postmaster at Jasper, Ga., in place of R. M. Edge. Incumbent's commission expired June 4, 1924.

Allie D. Griffin to be postmaster at Quitman, Ga., in place of W. R. Harrell. Incumbent's commission expired September 28, 1922.

Robert L. O'Kelley to be postmaster at Grantville, Ga., in place of T. B. Banks. Incumbent's commission expired June 4, 1924.

Louis S. Marlin to be postmaster at Doerun, Ga., in place of L. S. Marlin. Incumbent's commission expired February 4, 1924.

John F. Charles to be postmaster at Chatsworth, Ga., in place of S. M. Barnett. Incumbent's commission expired June 4, 1924.

##### ILLINOIS

Olga M. Streetz to be postmaster at River Grove, Ill. Office became presidential January 1, 1925.

John M. Yelton to be postmaster at Port Byron, Ill., in place of M. J. Yelton, deceased.

Mildred E. Wright to be postmaster at Murrayville, Ill., in place of W. E. Wright, resigned.

##### IOWA

Ren S. Bosley to be postmaster at Newhall, Iowa. Office became presidential January 1, 1925.

Arthur M. Foster to be postmaster at Storm Lake, Iowa, in place of A. C. Smith, deceased.

Matt Olson to be postmaster at Clear Lake, Iowa, in place of J. C. Palmer. Incumbent's commission expired June 5, 1924.

##### KANSAS

Uriah E. Heckert to be postmaster at Tescott, Kans. Office became presidential April 1, 1921.

Sheridan Crumrine to be postmaster at Longton, Kans., in place of F. N. Adams. Incumbent's commission expired June 4, 1924.

Lela Martin to be postmaster at Cherokee, Kans., in place of H. B. Price, removed.

##### KENTUCKY

John H. Meyer to be postmaster at Newport, Ky., in place of Alfred Gowling, deceased.

William T. Isaacs to be postmaster at Benham, Ky., in place of F. L. Coldwell. Incumbent's commission expired November 10, 1923.

##### MAINE

Susan M. Dyer to be postmaster at Harrington, Me., in place of W. N. Dyer, deceased.

##### MARYLAND

James C. Jones to be postmaster at Stevensville, Md. Office became presidential January 1, 1925.

##### MICHIGAN

Harvey W. Raymond to be postmaster at Baraga, Mich., in place of H. W. Raymond. Appointee declined.

William J. Newton to be postmaster at Marysville, Mich., in place of F. T. Jackson, resigned.

##### MINNESOTA

Henry B. Young to be postmaster at Holt, Minn. Office became presidential January 1, 1925.

Willie W. Bunday to be postmaster at Dennison, Minn. Office became presidential January 1, 1925.

Marvin R. Christensen to be postmaster at Arco, Minn. Office became presidential January 1, 1925.

##### MISSOURI

Ralph W. Day to be postmaster at Summersville, Mo., in place of Z. R. Baskett, removed.

##### MONTANA

Eliza J. Davis to be postmaster at Kevin, Mont. Office became presidential January 1, 1925.

##### NEW HAMPSHIRE

Burt D. Young to be postmaster at Cossville, N. H. Office became presidential January 1, 1925.

##### NEW JERSEY

William Griffin to be postmaster at Cresskill, N. J., in place of William Griffin. Incumbent's commission expired October 24, 1922.

Joseph B. Kronenberg to be postmaster at Bernardsville, N. J., in place of A. B. Gibb, deceased.

##### NEW YORK

Kenneth C. Steblen to be postmaster at Cape Vincent, N. Y., in place of F. J. Brady. Incumbent's commission expired February 14, 1924.

##### NORTH CAROLINA

Ophus L. Robertson to be postmaster at Leaksville-Spray, N. C. Office became presidential January 1, 1925.

##### NORTH DAKOTA

John D. Greene to be postmaster at Edgeley, N. Dak., in place of W. S. Hancock, removed.

##### OHIO

Hattie B. Elliott to be postmaster at Trenton, Ohio. Office became presidential January 1, 1925.

##### OKLAHOMA

Abe H. Bergthold to be postmaster at Weatherford, Okla., in place of H. J. Dray. Incumbent's commission expired February 4, 1922.

Mollie E. McGinty to be postmaster at Ripley, Okla., in place of W. E. Baker, resigned.

##### OREGON

Mabelle N. Olds to be postmaster at Cloverdale, Oreg. Office became presidential January 1, 1925.

##### PENNSYLVANIA

James G. Galbreath to be postmaster at Glassmere, Pa. Office became presidential October 1, 1923.

Daisy W. Shaw to be postmaster at Folcroft, Pa. Office became presidential January 1, 1925.

Bertha N. Stiner to be postmaster at Moylan, Pa., in place of F. T. Stiner, deceased.

##### TEXAS

Mary A. Weimhold to be postmaster at Odell, Tex., in place of S. S. Farley, resigned.

##### VERMONT

Robert B. Thomas to be postmaster at Jeffersonville, Vt., in place of F. L. Start, resigned.

##### VIRGINIA

Samuel W. Collie to be postmaster at Danville, Va., in place of W. N. Brown. Incumbent's commission expired July 15, 1918.

##### WEST VIRGINIA

Earl Morris to be postmaster at Pursglove, W. Va., in place of H. A. Pettigrew, removed.

#### CONFIRMATIONS

*Executive nominations confirmed by the Senate January 23 (legislative day of January 22), 1925.*

ASSISTANT DIRECTOR, BUREAU OF FOREIGN AND DOMESTIC COMMERCE

John Matthews, jr., to be assistant director, Bureau of Foreign and Domestic Commerce.



POSTMASTERS  
VIRGINIA

Benjamin T. Culbertson, Dungannon.  
Charles E. Black, Fordwick.  
Willie R. Hall (Mrs.), Heathsville.  
George W. Robinson, Raven.  
Fred S. Bock, Roxbury.  
Randall M. McGhee, Seven Mile Ford.

## HOUSE OF REPRESENTATIVES

FRIDAY, January 23, 1925

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou who art our everlasting hope, at Thy footstool we offer Thee our grateful praise. Thou who canst hear the falling of a tear and the whisper of a breath, read our hearts, purify our purposes, and cleanse us from all hidden motives which are contrary to Thy holy will. As the work of life is too long and too arduous to be borne alone, we beseech Thee, O Lord, to direct us with Thy counsel and make plain for us the definite outlines of duty. Go with us through all the scenes of life and be with us when we reach the end. Amen.

The Journal of the proceedings of yesterday was read and approved.

## REFERENCE OF A BILL

Mr. EDMONDS. Mr. Speaker, under instructions from the Committee on the Merchant Marine and Fisheries I ask unanimous consent to refer back to that committee the bill S. 2930, No. 304 on the Union Calendar, an act to regulate radio.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that there be referred to the Committee on the Merchant Marine and Fisheries a bill which the committee has reported. Is there objection?

Mr. GARNER of Texas. As I understand it, the gentleman makes the statement that this is a unanimous request of the committee?

Mr. EDMONDS. It was taken up in the committee yesterday, and I did not hear a dissenting vote when the question was put.

The SPEAKER. Is there objection?

There was no objection.

## AKTIESELSKABET MARIE DI GIORGIO

Mr. EDMONDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8235) for the relief of Aktieselskabet Marie di Giorgio, a Norwegian corporation of Christiania, Norway, with a Senate amendment thereto, and move that the House agree to the Senate amendment.

The Clerk read the Senate amendment.

Mr. GARNER of Texas. Mr. Speaker, reserving the right to object, is this satisfactory to the Democratic conferees?

Mr. EDMONDS. I spoke to the gentleman from Texas [Mr. Box] about it, and he is satisfied about it. There are no conferees.

Mr. GARNER of Texas. The bill has not gone to conference?

Mr. EDMONDS. It did not go to conference because we are agreeing to the Senate amendment. I talked to the gentleman from Texas [Mr. Box], and it is perfectly satisfactory. It simply gives our Government additional security.

The Senate amendment was agreed to.

## MEMORIAL SERVICES FOR THE LATE REPRESENTATIVE JULIUS KAHN

Mr. BARBOUR. Mr. Speaker, I ask unanimous consent that Sunday, February 22, be designated as a day for memorial services in memory of Hon. JULIUS KAHN, late a Representative from the fourth district of California.

The SPEAKER. The gentleman from California asks unanimous consent that Sunday, February 22, be set aside for memorial services for Mr. KAHN. Is there objection?

There was no objection.

## A. W. SMITH

Mr. HAUGEN. Mr. Speaker, inadvertently the bill H. R. 6557, to allow credit in the accounts of A. W. Smith, was passed last evening instead of Senate bill 2316, the Senate bill being identical with the House bill. I ask unanimous consent that the proceedings by which the House bill was passed be vacated and the Senate bill be considered.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the proceedings by which a House bill identical

with a Senate bill was passed be vacated and the Senate bill be considered. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Comptroller General of the United States is hereby authorized and directed, in the settlement of the accounts of A. W. Smith, fiscal agent, Forest Service, United States Department of Agriculture, to allow credit in the sum of \$111.75 now standing as a disallowance in said accounts on the books of the General Accounting Office, covering expenses incurred during the fiscal year ended June 30, 1917, in the erection of a building at the Bacon ranger station on the Klamath National Forest, Calif.

The bill was ordered to be read a third time, was read the third time, and passed.

The House bill H. R. 6557 was laid on the table.

## PITT RIVER POWER CO.

Mr. HAUGEN. Mr. Speaker, I make the same request as to the bill (H. R. 7053) for the relief of the Pitt River Power Co., and ask that the bill S. 2711, an identical bill, be considered.

The SPEAKER. Is there objection to vacating the House proceedings and considering a similar Senate bill, S. 2711?

There was no objection.

The SPEAKER. The Clerk will report the Senate bill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Comptroller General of the United States be, and he is hereby, authorized to adjust and settle the claim of the Pitt River Power Co. in the amount of \$1,767 paid to the United States and deposited with the Treasury, in connection with its application for a water-power permit on Pitt River, Calif., and to certify the same to Congress.

The bill was ordered to be read a third time, was read the third time, and passed.

The House bill H. R. 7053 was laid on the table.

## MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

A message from the President of the United States, by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved bills of the following titles:

On January 13, 1925:

H. R. 9076. An act to amend section 2 of the act entitled "An act to provide the necessary organization of the customs service for an adequate administration and enforcement of the tariff act of 1922 and all other customs revenue laws," approved March 4, 1923.

On January 14, 1925:

H. J. Res. 259. Joint resolution establishing a commission for the participation of the United States in the observance of the one hundred and fiftieth anniversary of the Battle of Lexington and Concord, authorizing an appropriation to be utilized in connection with such observance, and for other purposes;

H. R. 2309. An act for the relief of Robert Laird, sr.; and

H. R. 8906. An act to amend the act entitled "An act for the retirement of employees in the classified civil service, and for other purposes," approved May 22, 1920.

On January 16, 1925:

H. R. 62. An act to authorize the appointment of an additional district judge in and for the district of Indiana and to establish judicial divisions therein, and for other purposes.

On January 17, 1925:

H. R. 10144. An act to amend an act entitled "An act to fix the salaries of officers and members of the Metropolitan police force, the United States park police force, and the fire department of the District of Columbia," approved May 27, 1924.

On January 20, 1925:

H. R. 11308. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1925, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1925, and for other purposes.

On January 21, 1925:

H. R. 9804. An act to amend the act entitled "An act to create a commission authorized under certain conditions to refund or convert obligations of foreign governments held by the United States of America, and for other purposes," approved February 9, 1922, as amended February 28, 1923.

On January 22, 1925:

H. R. 10982. An act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1926, and for other purposes.